



**MEETING AGENDA
SESSION OF THE CITY COMMISSION
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
TUESDAY, NOVEMBER 7, 2023 AT 6:00 PM**

1. MEETING CALLED TO ORDER

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

3. PROCLAMATIONS AND SPECIAL PRESENTATIONS

3.A Employee of the Month for November

3.B Promotion Ceremony for Police Lieutenant, Sergeant and Corporal

4. PUBLIC HEARINGS - FIRST AND SECOND READINGS

4.A Public Hearing - Second and Final Reading - Proposed Ordinance #23-08 - Ordinance to annex 0.79 acres of land - AX-23-0001 - County Vacated Right-of-Way (ROW) Hilliard Isle

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND, TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

4.B Public Hearing – Final Reading - Proposed Ordinance #23-09 - Ordinance amending the Future Land Use Map designation from County Vacated Right-of-Way (ROW) to City Commercial General (CG): Hilliard Isle ROW Vacation, LUPA-23-0002

AN ORDINANCE AMENDING ORDINANCE NO. 3050 KNOWN AS THE ORDINANCE ADOPTING THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF KISSIMMEE, FLORIDA, UNDER THE AUTHORITY OF FLORIDA STATUTE 163.3184; DIRECTING THE CITY MANAGER TO AMEND THE COMPREHENSIVE LAND USE PLAN AS HEREIN PROVIDED AFTER THE PASSAGE OF THIS ORDINANCE; PROVIDING FOR A PUBLIC HEARING AS REQUIRED BY LAW; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE

4.C Public Hearing - Final Reading - Proposed Ordinance #23-10 - Ordinance amending the Zoning Map designation from County Vacated Right-of-Way to City Neighborhood Commercial (B-2): Hilliard Isle ROW, ZMA-23-0003

AN ORDINANCE AMENDING ORDINANCE NO. 3068 KNOWN AS THE CITY OF KISSIMMEE LAND DEVELOPMENT CODE, REZONING THE PROPERTY HEREINAFTER DESCRIBED, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

4.D Public Hearing - Second and Final Reading - Proposed Ordinance # 23-21 - Amending the Police Retirement Plan

AN ORDINANCE OF THE CITY OF KISSIMMEE ,FLORIDA, AMENDING CHAPTER 30, PERSONNEL, ARTICLE III, EMPLOYEE RETIREMENT, DIVISION 4, POLICE OFFICERS' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE; AMENDING SECTION 30-198,DEFINITIONS; AMENDING SECTION 30- 201, FINANCES AND FUND MANAGEMENT, ESTABLISHMENT OF OPERATION OF FUND;AMENDING SECTION 30-213, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 30-228, SUPPLEMENTAL SHARE PLAN RETIREMENT BENEFIT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; 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 City Commission Minutes from the October 17, 2023 meeting

7.B Purchase of Compact Rapid Deployable (CRD) Communications Device

7.C Donation of a trained scent discrimination Bloodhound from Senior Resource Alliance

7.D Replacement of playground at Kissimmee Lakefront Park

7.E State of Florida Mutual Aid Agreement (Contract 20240037)

7.F Commission Ratification of the Collective Bargaining Agreement (CBA) with the International Association of Firefighters, Local 4208 (IAFF) Representing the Rank and File and Supervisory Bargaining Units

7.G New pavilion at Oak Street Park

7.H Building Fund budget adjustments

7.I 2023 Bulletproof Vest Partnership Grant from the United States Department of Justice, Office of Justice Programs

7.J Resilient Florida Grant for Woodside Drainage Improvement Project

7.K Randolph Place - Final Plat (DRC# SR-22-0020)

7.L Purchase of a Street Sweeper for Public Works Streets and Stormwater Division

7.M Amendment to Drainage and Retention Pond Easement for the Epoch Phase 3 Development (DRC# 21-00085)

7.N Budget Adjustment to the State Housing Initiatives Partnership (SHIP) Funds

7.O First Addendum of Janitorial Services contract with Halo Building Services

7.P Sale of vacant land located at 504 Canterbury Lane

7.Q Projects to be Carried Forward to FY 2023-2024

7.R Federal Aviation Administration Grant for Construction/Improvements of Taxiway Delta

7.S HOME Program and Subordination Agreements for the Pinnacle at the Wesleyan Apartments

7.T Temporary Construction Easement Agreement Between the City of Kissimmee and Park Square MF, LLC

8. DISCUSSION ITEMS

8.A Social Services and Quality of Life Grant Funding Allocations for FY 2023-24

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

Employee of the Month for November

Request

Request that the City Commission join the City Manager in recognizing Scott Pool, Human Resources & Risk Management, as November's Employee of the Month.

Explanation

The City is honored to recognize Scott Pool as Employee of the Month for November. Scott is the Benefits Analyst and has been with the City for over 26 years.

Scott is an excellent contributor to the City and its employees. His dedication, compassion, and willingness to help others demonstrate not only his professional competence but also his outstanding character. Scott's ability to simplify complex Wellness and Benefits information, his involvement in various committees, his thoughtful gestures, and his big heart are among a few of his special qualities. Scott's commitment to the overall well-being of his colleagues and the organization as a whole shines bright when he is coordinating the City Health Fair, Memorial Service, Employee Seminars, Employee Orientations, and Exit Interviews. One example of Scott's benevolence is when he assisted co-workers during a rainstorm: employees were waiting in the lobby to go to their vehicles, and Scott took it upon himself to locate umbrellas, so his co-workers were able to get to their cars safely and dry. Employees are fortunate to have someone like Scott who goes above and beyond to create a positive and supportive work environment. His actions truly make a difference and contribute significantly to the City's community spirit.

For this and many more, the City is pleased to recognize Scott Pool.

Department: Human Resources & Risk Management

Presenter: Mike Steigerwald

Attachment(s):

None

ITEM 3.B

Promotion Ceremony for Police Lieutenant, Sergeant and Corporal

Request

Swearing in and administering of oath for newly promoted Police Lieutenant Brandin J. Suarez, Sergeant Josue A. Naranjo and Corporal Mario O. Lewis.

Explanation

Brandin J. Suarez was hired by the City on April 26, 2010, and has worked assignments in the Patrol, Special Operations, and Criminal Investigations Divisions.

Josue A. Naranjo was hired by the City on May 21, 2012, and has worked assignments in the Patrol, Special Operations, and Criminal Investigations Divisions.

Mario O. Lewis was hired by the City on March 11, 2019, and has worked assignments in the Patrol Division and Professional Standards Section.

Department: Police
Presenter: Betty Holland

Attachment(s):

1. (S) Swearing Oath 11.07.23



CITY OF KISSIMMEE POLICE DEPARTMENT
8 NORTH STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.847.0176



November 7, 2023

I, Brandin J. Suarez, having been appointed to the rank of Lieutenant, 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)

Brandin J. Suarez
Lieutenant

ATTEST:

WITNESS:

City Clerk

Betty Holland
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT
8 NORTH STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.847.0176



November 7, 2023

I, Josue A. Naranjo, having been appointed to the rank of Sergeant, 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)

Josue A. Naranjo
Sergeant

ATTEST:

WITNESS:

City Clerk

Betty Holland
Chief of Police



CITY OF KISSIMMEE POLICE DEPARTMENT
8 NORTH STEWART AVENUE - KISSIMMEE, FLORIDA 34741 - 407.847.0176



November 7, 2023

I, Mario O. Lewis, having been appointed to the rank of Corporal, 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)

Mario O. Lewis
Corporal

ATTEST:

WITNESS:

City Clerk

Betty Holland
Chief of Police

ITEM 4.A

Public Hearing - Second and Final Reading - Proposed Ordinance #23-08 - Ordinance to annex 0.79 acres of land - AX-23-0001 - County Vacated Right-of-Way (ROW) Hilliard Isle

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND, TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

Request

Approval to Annex approximately 0.79 acres of property located east of Simpson Road and north of Hilliard Isle Road.

Explanation

The subject property has a total land area of 1.3 acres of land. A portion to the south of this property, approximately 0.79 acres of land, remains in Osceola County's jurisdiction. The applicant has initiated this annexation application to annex this portion of vacated street right-of-way to develop the entire site in the near future. The proposed annexation meets all the requirements set forth by local ordinance and Florida Statutes for a voluntary annexation as the property is contiguous, or adjacent, to the City Limits along the northern and southern boundaries.

Property History: The subject site has gone through various changes over time. In 2000, the City of Kissimmee Commission approved an annexation request, which included a portion of the subject property to the south (please see attached Ordinance #2410). It was during this time that Hilliard Isle Road was to the south of the subject property. In 2007, a final plat was approved by the City of Kissimmee where it introduced a realignment of Hilliard Isle Road to the north of the subject property (refer to attached Final Map "Hilliard Isle Commercial Center"). In 2015, the Board of County Commissioners of Osceola County initiated the vacation of right-of-way of Hilliard Isle Road to the south (refer to Osceola County Vacation ROW Map). Since then, this portion has remained in Osceola's County jurisdiction as a vacated ROW. The First Reading of this annexation was approved at the July 18, 2023, City Commission meeting.

FINDINGS AND REASONS:

1. Compliance with Chapter 171 of the Florida Statutes as it meets all the criteria for voluntary annexation as the property is contiguous, or adjacent, to the City Limits along the northern and southern boundaries of the parcel. Public services, including water, sewer, drainage, and emergency services are already provided to these adjacent City parcels. The subject property is reasonably compact and will not result in the creation of an enclave if annexed.
2. Compliance with Section 14-3-25 annexation regulations outlined in the Land Development Code that refers to Chapter 171, Florida Statutes, and the general annexation procedures in the City's Comprehensive Plan utilizing either the City's land use conversion table in Future Land Use Policy 1.1.10.5, an Annexation Agreement, or a Future Land Use Map amendment. A concurrent Future Land Use Amendment (LUPA-23-0002) will be utilized to establish the Future Land Use designation on this property.

Recommendation

REQUESTED PLANNING ADVISORY BOARD ACTION:

Approve
City of Kissimmee

The Development Review Committee (DRC) recommended approval on April 4, 2023.

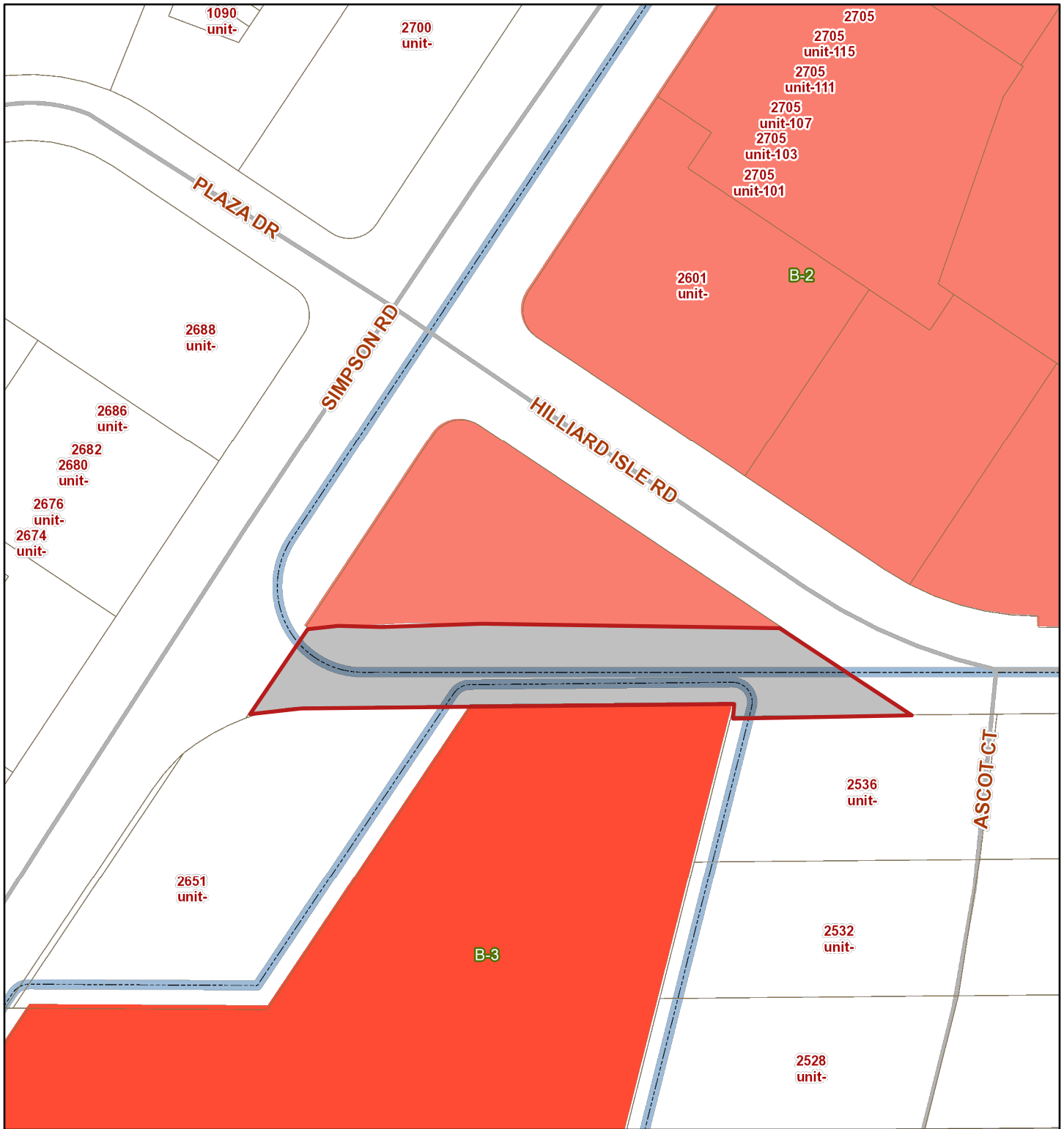
The Planning and Advisory Board (PAB) recommended approval by a vote of 4-0 on June 7, 2023.

The First Reading was approved at the July 18, 2023 City Commission meeting.

Attachment(s):

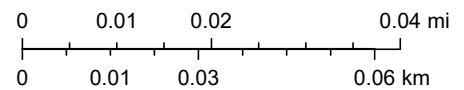
1. AX-23-0001 Vicinity Map
2. AX-23-0001 Aerial Map
3. AX-23-0001 Site Data Tables
4. (S)AX-23-0001 Proposed Ordinance 23-08
5. AX-23-0001 City Commission Ad
6. AX-23-0001 July 18, 2023 City Commission Minutes
7. AX-23-0001 June 7, 2023 PAB Minutes
8. AX-23-0001 DRC Comments
9. AX-23-0001 DRC Application
10. AX-23-0001 Support Documents
11. AX-23-0001 Affidavit of Publication (Orlando Sentinel)

Hilliard Isle ROW Annexation AX-23-0001

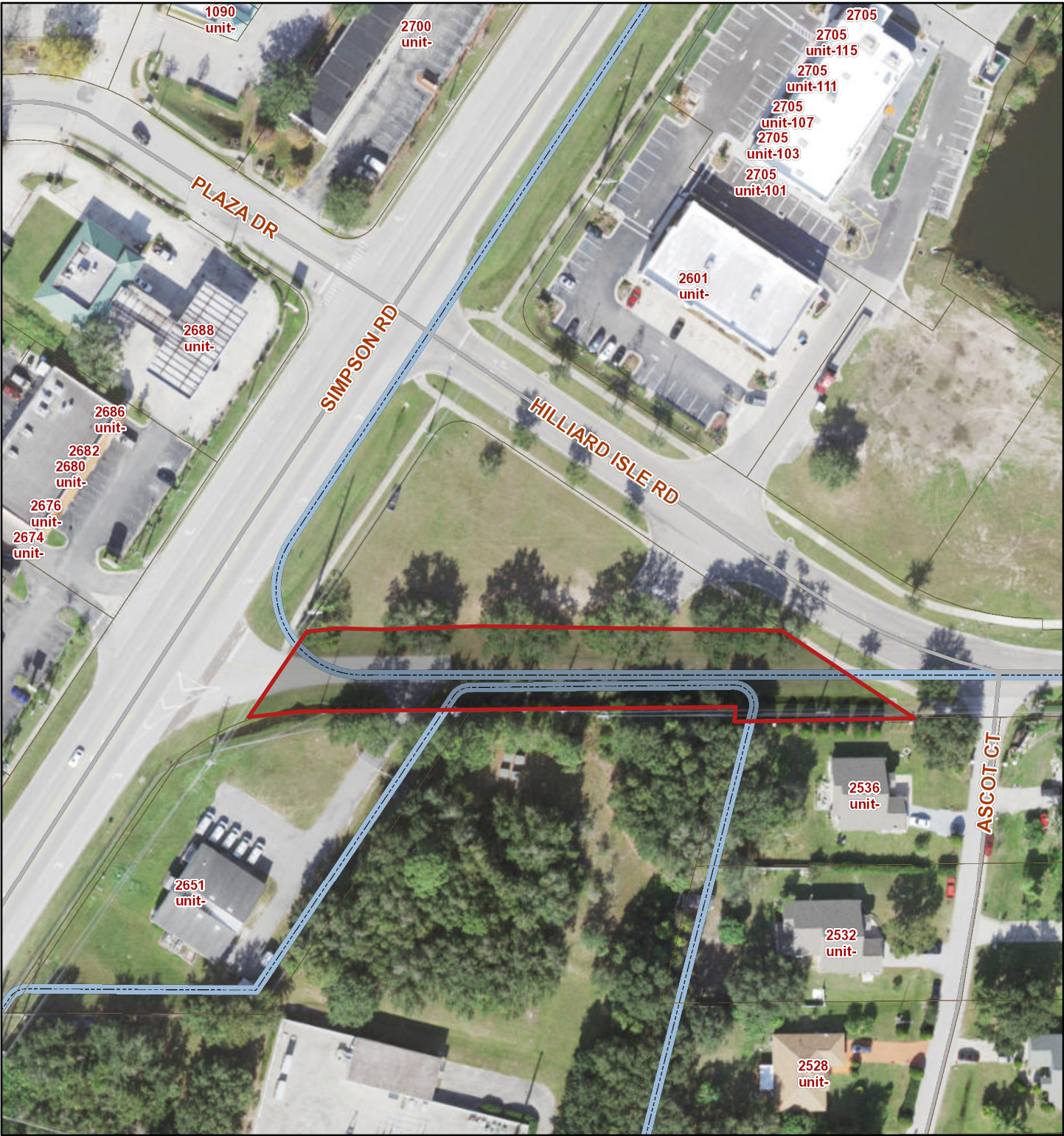


May 9, 2023

1:1,462



Hilliard Isle ROW Annexation
AX-23-0001

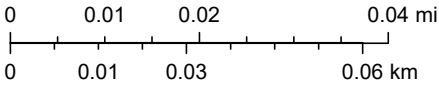


May 9, 2023

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- Address Points
- Parcels
- Road Centerlines
- City Limits
 - CITY
 - COUNTY

- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 30cm Resolution Metadata



State of Florida, Maxar

Hilliard Isle ROW Annexation, AX-23-0001
Portion of Parcel ID# 08-25-30-1534-0001-0010
East of Simpson Road and North of Hilliard Isle Road.
Site Data Tables

Site Data	
Size	0.79 acres
Future Land Use Designation	N/A (Vacated Right Of Way)(ROW) – County
Proposed Future Land Use Designation	Commercial General (CG) – City
Zoning District Designation	N/A (Vacated ROW) – County
Proposed Zoning District Designation	Neighborhood Commercial District (B-2) - City
Existing Overlay District	N/A
Existing Use(s)	Vacated ROW
Proposed Use(s)	Commercial
Adjacent Land Use	
North	Commercial General (CG) – City
South	Utilities (UT) - City, Commercial - County, & Low Density Residential (LDR) – County
East	N/A Hilliard Isle Road - County
West	N/A Simpson Road - County
Adjacent Zoning	
North	Neighborhood Commercial District (B-2) - City
South	General Commercial (B-3) – City, Estate (E-1) – County, & Residential (RS-1A) – County
East	N/A Hilliard Isle Road - County
West	N/A Simpson Road - County
Zoning History	N/A - This portion of this parcel is currently within County jurisdiction.
Past/Current Project Tracking	00-0036 Annexation 00-0037 Land Use Amend. (CG County to CG City) 00-0038 Rezoning (CR- County to B-2 City) LUPA-23-0002 Land Use Amend. (<i>Pending</i>) ZMA-23-0003 Zoning Map Amendment (<i>Pending</i>)

Comprehensive Plan Summary
Policy 1.2.3.2, Commercial General (CG): The Commercial General land use designation is intended to include the hub of retail sales and services within the downtown business district as well as highly accessible areas adjacent to major thoroughfares and transit facilities, that possess necessary location, site, and market requirements. This future land use designation shall be implemented through the City's Land Development Code. This area is not intended to accommodate manufacturing, processing, or assembly of goods, sales and service of heavy commercial vehicle and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities which may generate nuisance impacts, including glare, smoke or other air pollutants, noise, vibration or major fire hazards.

Development and redevelopment projects within this future land use designation may be built with an intensity of up to 2.5 FAR.

Potential Zoning Districts	Agriculture and Conservation District (AC)
	Neighborhood Commercial District (B-2)
	General Commercial District (B-3)
	Highway Commercial District (HC)
	Office Commercial District (B-5)

Zoning District Standards District Summary

Land Development Code Section 14-4-4(I), Neighborhood Commercial (B-2) Intent: 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.

Comprehensive Plan Future Land Use & Zoning Comparisons

	<i>Existing Future Land Use & Zoning</i>	<i>Requested Future Land Use & Zoning</i>
Uses	N/A Vacated ROW	Commercial General (CG) – City 2.5 Max. Floor Area Ratio (FAR) Future Land Use
	N/A Vacated ROW	Neighborhood Commercial (B-2) - City Zoning
	Vacated ROW	Commercial

Public Facilities Analysis

Transportation	
Adjacent street	Simpson Road, Hilliard Isle Road
Street Quality of Service (QOS)	Adjacent Streets are under Osceola County jurisdiction.
Sanitary Sewer	
Is volume less than 98% capacity?	N/A – Compliance
Potable Water	
Is volume less than 98% capacity?	N/A – Compliance
Is water pressure at least 40lbs per square inch?	N/A – Compliance
Solid Waste	
Is volume less than 5.1lbs per person per calendar day?	N/A – Compliance

Recreation	
Is active recreation area at least 2 acres per 1,000 population?	N/A – Compliance
Is urban open space area at least 2 acres per 1,000 population?	N/A – Compliance
Is total recreation area at least 4 acres per 1,000 population?	N/A – Compliance
Drainage	
Is off-site discharge; runoff velocities; roadway drainage; pavement; retention; and flood storage LOS standards met?	N/A- Compliance

PROPOSED ORDINANCE NO. 23-08
ORDINANCE NO. _____

**AN ORDINANCE PROVIDING FOR THE ANNEXATION OF
CERTAIN HEREIN DESCRIBED LAND, TO THE CITY OF
KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE
TERMS AND CONDITIONS OF SUCH LAND AFTER ITS
ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT
HEREWITH AND PROVIDING AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA, IN
LAWFUL SESSION ASSEMBLED, AS FOLLOWS:

SECTION 1. After public hearing and proper legal advertisement, the City Commission of the City of Kissimmee determined that the hereinafter described property is susceptible of municipal benefits and that the best interest of the City of Kissimmee will be served by the annexation of the hereinafter described land.

Acreage: 1.3

The subject property is vacated ROW located at Hilliard Isle Rd. & Simpson Rd. **Portion of Parcel ID: 08-25-30-0000-0085-000008**

Legal Description:

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of the Northeast 114 of the Southwest 114 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 00°13'31" West, along the East line of the Northeast 114 of the Southeast 114 of said Section 8, for a distance of 43.99 feet to a point on the South right of way line of Hilliard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 89°17'43" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 8°17'43" West, along said South right of way line, for a distance of 188.08 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a distance of 9.62 feet; thence run South 89°44'59" West for a distance of 76.84 feet; thence run South 87°58'45" West for a distance of 141.43 feet; thence run South 85°00'54" West for a distance of 67.54 feet; thence run South 82°16'44" West for a distance of 38.05 feet; thence run South 77°16'48" West for a distance of 67.66 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeasterly right of way line of Boggy Creek Road; thence departing said South right of way line, run North 33°50'27" East, along the said Southeasterly right of way line of Boggy Creek Road, for a distance of 167.77 feet to a point on the North right of way line of said Hilliard Isle Road, said point being a point on a curve, concave Northeasterly, having a radius of 24.01 feet, a chord bearing of South 31°05'18" East and a chord distance of 33.10 feet; thence run Southeasterly along the arc of said curve through a central angle of 87°07'13" for an arc distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 87°21'58" East for a distance of 78.16 feet; thence run South 88°36'49" East for a distance of 166.47

feet; thence run South 89°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 56°09'33" East for a distance of 39.97 feet to the point of curvature of a curve, concave Northeasterly, having a radius of 290.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.94 feet; thence run Southeasterly along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.90 feet to the POINT OF BEGINNING.

Containing 37,474 square feet, or 0.79 acres, more or less.

SECTION 2. That upon the effective date of this Ordinance, the land described in Section 1 of this Ordinance shall be part of the City of Kissimmee, Florida, and the boundaries of said shall now include the herein above described land from the effective date of this Ordinance.

SECTION 3. That the land described in Section 1 of this Ordinance shall from the effective date of this Ordinance be susceptible to all of the municipal benefits and responsibilities. That the land shall be subject to taxation by the City of Kissimmee beginning the first date of the first calendar year after the effective date of this Ordinance.

However, until that date, no real or personal property within the area described in this Ordinance and so annexed, shall be liable for or taxed to pay any bonded indebtedness of the City of Kissimmee existing at the time of the passage of this Ordinance. Except the exemption provided in this Ordinance, said land shall be subject to all of the obligations and duties as any other lands within the corporate boundaries of the City of Kissimmee, Florida.

SECTION 4. This Ordinance shall take effect 10 days after its passage.

BE IT ORDAINED, by the City Commission of the City of Kissimmee, this **7th** day of **November**, 20**23**.

Mayor-Commissioner

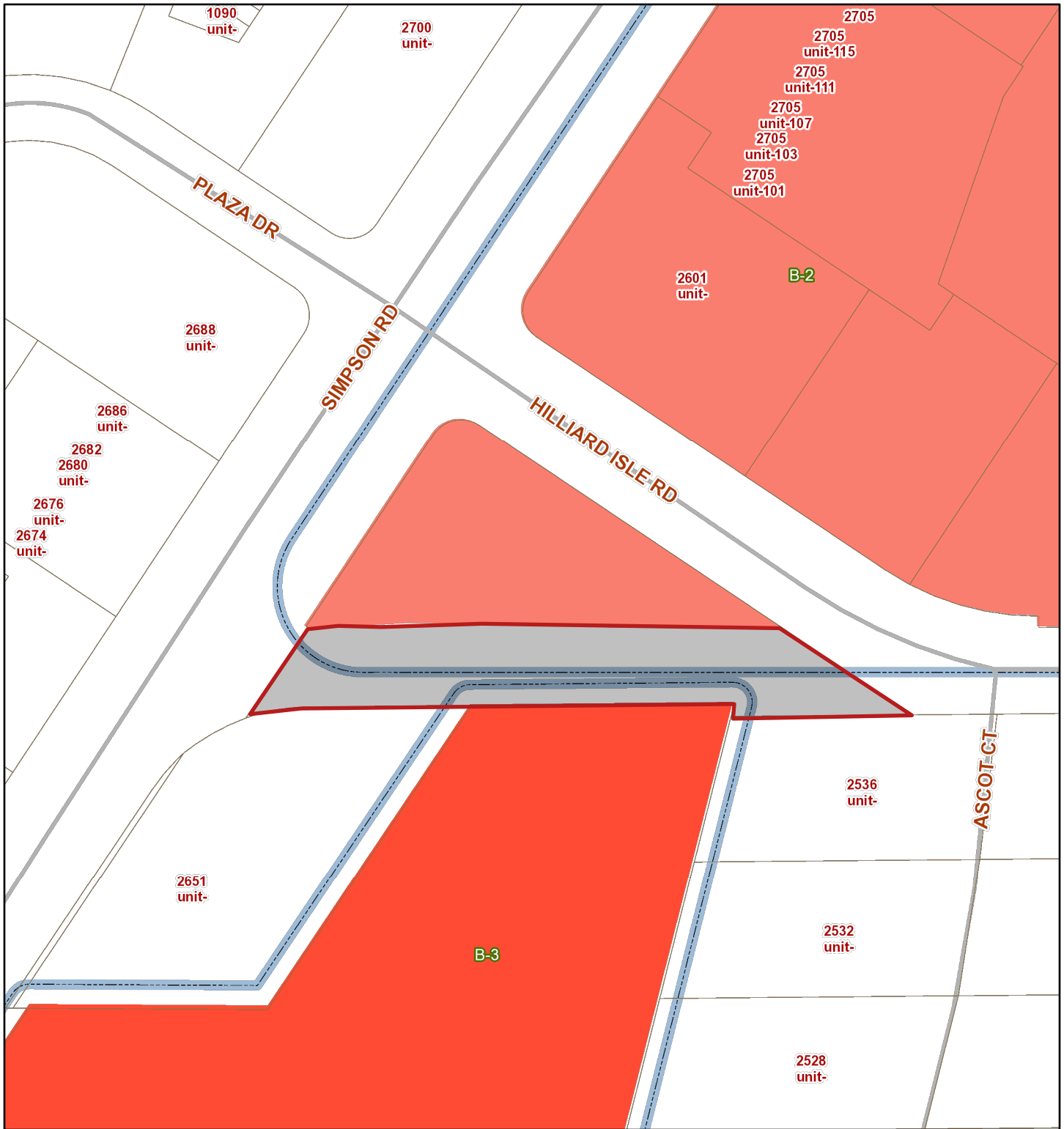
ATTEST:

City Clerk

Approved as to form and legality:

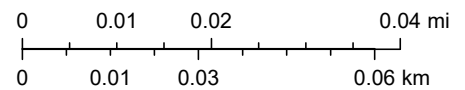
City Attorney

Hilliard Isle ROW Annexation AX-23-0001



May 9, 2023

1:1,462



CITY OF KISSIMMEE

NOTICE OF PUBLIC HEARING

VOLUNTARY ANNEXATION

The City Commission will meet on Tuesday, **November 7, 2023** at 6:00 p.m., in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida, to hear the **Second and Final Reading** of the proposed voluntary annexation and vote upon its passage. The proposed annexation ordinance and a complete legal description by metes and bounds may be obtained by contacting the Office of the City Clerk, City Hall.

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.

Any questions regarding this public hearing may be directed to the Development Services Department at (407) 518-2140 or at planning@kissimmee.gov.

PROPOSED ORDINANCE #23-08 AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION.

The city is requesting annexation as follows:

The subject property is vacated ROW located at Hilliard Isle Rd. & Simpson Rd.
Portion of Parcel ID: 08-25-30-0000-0085-000008

Legal Description:

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of the Northeast 114 of the Southwest 114 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 00°13'31" West, along the East line of the Northeast 114 of the Southeast 114 of said Section 8, for a distance of 43.99 feet to a point on the South right of way line of Hilliard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 89°17'43" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 8°17'43" West, along said South right of way line, for a distance of 188.08 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a distance of 9.62 feet; thence run South 89°44'59" West for a distance of 76.84 feet; thence run South 87°58'45" West for a distance of 141.43 feet; thence run South 85°00'54" West for a distance of 67.54 feet; thence run South 82°16'44" West for a distance of 38.05 feet; thence run South 77°16'48" West for a distance of 67.66 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeasterly right of way line of Boggy Creek Road; thence departing said South right of way line, run North 33°50'27" East, along the said Southeasterly right of way line of Boggy Creek Road, for a distance of 167.77 feet to a point on the North right of way line of said Hilliard Isle Road, said point being a point on a curve, concave Northeasterly, having a radius of 24.01 feet, a chord bearing of South 31°05'18" East and a chord distance of 33.10 feet; thence run Southeasterly along the arc of said curve through a central angle of 87°07'13" for an arc distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 87°21'58" East for a distance of 78.16 feet; thence run South 88°36'49" East for a distance of 166.47 feet; thence run South 89°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 56°09'33" East for a distance of 39.97 feet to the point of curvature of a curve, concave Northeasterly, having a radius of 290.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.94 feet; thence run Southeasterly along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.90 feet to the POINT OF BEGINNING.

Reference # **AX-23-0001**
Hilliard Isle ROW

CITY COMMISSION
KISSIMMEE, FLORIDA



In accordance with Florida Statutes 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.

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)

FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE

Approval to Annex approximately 0.79 acres of property located east of Simpson Road and north of Hilliard Isle Road.

City Attorney Sanchez de Fuentes read Proposed Ordinance #23-08 by title.

Planner Cristian Arias reviewed the details of the voluntary annexation. The applicant wishes to develop a commercial site in the future at the south east corner of Simpson Road and Hilliard Isle Road. The property is adjacent to the city limits, will not create an enclave, and is consistent with the Land Development Code. The Development Review Board and Planning Advisory Board approved this request, therefore staff is recommending approval.

Mayor Pro Tem Eady announced the Public Hearing with no response from the audience.

Commissioner Alvarez made a motion to approve the Public Hearing and First Reading of Proposed Ordinance #23-08. Commissioner Martinez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Commissioner Martinez

NAY: None

Motion carried 3 - 0.

5. PUBLIC HEARINGS

5.A Public Hearing - City of Kissimmee Annual Action Plan and Adoption of Accompanying Resolution

Approval of the City of Kissimmee Annual Action Plan for Fiscal Year 2023 and its accompanying Resolution authorizing the Mayor to execute any necessary documents and certifications.

Frances DeJesus, Development Services reviewed the Annual Action Plan and Resolution for FY 2023, she explained that staff allocates funds based on the consolidated plan of 2020 in areas related to code enforcement, public services, housing, rehabilitation, administration, tenant-based rental assistance, rental development, community housing, and new construction. A community meeting was held recently and a survey was conducted to solicit feedback on areas of interest for the funds. Staff is recommending approval of the Public Hearing and the accompanying Resolution.

Mayor Pro Tem Eady announced the Public Hearing with no response from the audience.

Commissioner Martinez made a motion to approve the Public Hearing and adopt Resolution #09-2023. Commissioner Alvarez seconded the motion.

AYE: Commissioner Alvarez, Commissioner Eady, Commissioner Martinez

NAY: None

Motion carried 3 - 0.



**MEETING MINUTES
SESSION OF THE PLANNING ADVISORY BOARD
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
WEDNESDAY, JUNE 7, 2023 AT 6:00 PM**

1. **MEETING CALLED TO ORDER Members Present:** Board Member Robert Bussiere, Board Member Robert Spalding, Board Member Melissa Thacker, Board Member Sylvette Santos
Staff Present: Deputy City Attorney Kalanit Oded, Senior Planner Cristian Arias, Planning Manager Brenda Ryan, Planning Technician Yolanda Hazley
Members Absent: Board Member Diana Marrero-Pinto, Board Member Fatima Santiago

Chairman Bussiere called the meeting to order at 06:01 PM.

2. **MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE** After a Moment of Silence, Chairman Bussiere led the audience in the Pledge of Allegiance.

3. **MINUTES**

- 3.A Approval of the May 17, 2023 Planning Advisory Board (PAB) Meeting Minutes.
 Board Member Spalding made a motion to Approve. Board Member Thacker seconded the motion.

AYE: Board Member Bussiere, Board Member Santos
 NAY: None

Motion to Approve Passed 4 - 0.

4. **OLD BUSINESS**

5. **NEW BUSINESS**

- 5.A Public Hearing - Ordinance to annex 0.79 acres of land - AX-23-0001 - Proposed Ordinance #23-08

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND, TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Senior Planner Arias stated that this is a request for an Annexation to annex 0.79 acres of land. The subject property is located at the SE corner of Simpson Rd. and Hilliard Isle.

Staff recommends approval for the following reasons:

1. Compliance with Chapter 171 of the Florida Statutes as it meets all the criteria for voluntary annexation as the property is contiguous, or adjacent, to the City Limits along the northern and southern boundaries of the parcel. Public services, including water, sewer, drainage, and emergency services are already provided to these adjacent City parcels. The subject property is reasonably compact and will not result in the creation of an enclave if annexed.
2. Compliance with Section 14-3-25 annexation regulations outlined in the Land Development Code that refers to Chapter 171, Florida Statutes, and the general

annexation procedures in the City's Comprehensive Plan utilizing either the City's land use conversion table in Future Land Use Policy 1.1.10.5, an Annexation Agreement, or a Future Land Use Map amendment. A concurrent Future Land Use Amendment (LUPA-23-0002) will be utilized to establish the Future Land Use designation on this property.

Jeremy Anderson, 4016 Edgewater Dr. Orlando, FL representing the applicant was available for any questions.

Board Member Spalding made a motion to Approve. Board Member Thacker seconded the motion.

AYE: Board Member Bussiere, Board Member Santos
NAY: None

Motion to Approve Passed 4 - 0.

5.B Public Hearing – An Ordinance amending the Future Land Use Map designation from County Vacated Right-of-Way (ROW) to City Commercial General (CG): Hilliard Isle ROW Vacation, LUPA-23-0002 - Proposed Ordinance #23-09

AN ORDINANCE AMENDING ORDINANCE NO. 3050 KNOWN AS THE ORDINANCE ADOPTING THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF KISSIMMEE, FLORIDA, UNDER THE AUTHORITY OF FLORIDA STATUTE 163.3184; DIRECTING THE CITY MANAGER TO AMEND THE COMPREHENSIVE LAND USE PLAN AS HEREIN PROVIDED AFTER THE PASSAGE OF THIS ORDINANCE; PROVIDING FOR A PUBLIC HEARING AS REQUIRED BY LAW; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

Senior Planner Arias stated that this is a request for a Land Use Plan Amendment to the Future Land Use Map designation from Vacated Right-of-Way (County) to CG- (Commercial General) - City on approximately 0.79 acres of land.

Staff recommends approval for the following reasons:

1. Compliance with Policy 1.2.3.2, Commercial General (CG): Future Land Use Designation, that is intended to accommodate office uses, general retail sales, and service uses that are highly accessible and adjacent to major thoroughfares and transit facilities and possess necessary location, site, and market requirements.
2. Compliance with Land Development Code Section 14-3-26, Comprehensive Plan Text and Map Amendments, in regards to the submittal and review procedures and criteria to support an amendment.

Staff recommends approval subject to the following 1 condition:

1. Subject to the approval of the Hilliard Isle ROW Annexation (AX-23-0001).

Board Member Spalding made a motion to Approve subject to 1 condition. Board Member Thacker seconded the motion.

1. Subject to the approval of the Hilliard Isle ROW Annexation (AX-23-0001).

AYE: Board Member Bussiere, Board Member Santos
NAY: None

Motion to Approve w/Conditions Passed 4 - 0.

- 5.C Public Hearing - An Ordinance amending the Zoning Map designation from County Vacated Right-of-Way to City Neighborhood Commercial (B-2): Hilliard Isle ROW, ZMA-23-0003 - Proposed Ordinance #23-10

AN ORDINANCE AMENDING ORDINANCE NO. 3068 KNOWN AS THE CITY OF KISSIMMEE LAND DEVELOPMENT CODE, REZONING THE PROPERTY HEREINAFTER DESCRIBED, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

Senior Planner Arias stated that this is a request for approval of a Zoning Map Amendment to change the zoning from Vacated Right-of-Way (County) to B-2 (Neighborhood Commercial) City on approximately 0.79 acres of land.

Staff recommends approval for the following reasons:

1. Compliance with the intent of the Neighborhood Commercial (B-2) zoning district as outlined in Section 14-4-4(l) of the Land Development Code.
2. Compliance with the allowable uses as outlined in Section 14-4-5, Table 4-2, is consistent and compatible with the surrounding area.
3. Compliance with Land Development Code Section 14-3-27, Zoning map and Land Development Code (LDC) amendments, in regards to the submittal and review procedures and criteria to support an amendment.
4. Compliance with Comprehensive Plan Future Land Use Policy 1.2.3.2, Commercial General, in that this designation is compatible with the Neighborhood Commercial (B-2) Zoning designation.

Staff recommends approval subject to the following 1 condition:

1. Subject to the approval of the associated Hilliard Isle ROW Annexation (AX-23-0001) and Land Use Plan Amendment (LUPA-23-0002).

Board Member Thacker made a motion to Approve with 1 Condition. Board Member Spalding seconded the motion.

- 1. Subject to the approval of the associated Hilliard Isle ROW Annexation (AX-23-0001) and Land Use Plan Amendment (LUPA-23-0002).**

AYE: Board Member Bussiere, Board Member Santos

NAY: None

Motion to Approve w/Conditions Passed 4 - 0.

6. PUBLIC HEARINGS

7. DISCUSSION

8. HEAR CHAIRMAN AND BOARD MEMBERS

9. **ADJOURNMENT** Board Member Spalding made a motion to Adjourn. Board Member Thacker seconded the motion.

AYE: Board Member Bussiere, Board Member Santos

NAY: None

Motion to Adjourn Passed 4 - 0.

There being no further business to come before the Planning Advisory Board, Chairman Bussiere adjourned the meeting at 06:21 PM.


Board Chairman

ATTEST:

Board Secretary



DEVELOPMENT SERVICES DEPARTMENT

PLANNING DIVISION

101 CHURCH STREET - KISSIMMEE, FLORIDA 34741 - 407.518.2140

DEVELOPMENT PROJECT COMMENT FORM

THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGОВ & BLUEBEAM

ADDRESS: 08-25-30-1534-0001-0010

DATE: 3/28/2023

PLAN (DRC) NUMBER: AX-23-0001

Review Status:
APPROVED WITH CONDITIONS.

PLANNING DIVISION - Cristian I. Arias - 407-518-2373 Cristian.Arias@kissimmee.gov

Request is for the annexation of a vacated road, where half of this road went to the subject property and the other half to Osceola County. This annexation will unify the entire property into the City in order to be developed. The applicant is requesting the existing (City) zoning and land use, which are B2 zoning and CG land use.

1. Annexation is subject to Planning and Advisory Board, and City Commission review and approvals.

If you have any questions regarding the comments/conditions above, please use the contact information provided.

Please login to the Citizen Self Service portal at www.kissimmee.gov.energov to upload a response to comments.

Additional comments may be forth coming as a result of revisions to the plans, any new changes in the information provided, future plan review up to plan approval and permitting and/or with submittal of supporting documentation. When submitting, please provide a response to comments outlining where and how the comments have been addressed.



THE SCHOOL DISTRICT OF OSCEOLA COUNTY, FLORIDA
PLANNING SERVICES DEPARTMENT
SCHOOL CAPACITY REPORT

SDOC#:2020/21-0080

DRC#: ZMA-23-0002

Current FLU: LDR
Requested FLU: N/A

PROJECT NAME: Hilliard Isle ROW Vacate Annex

Current Zoning: LDR
Requested Zoning: N/A

PROJECT LOCATION: Hilliard Isle Blvd.

COMMENTS DUE DATE: 4.3.23

PID#: 35-25-28-00U0-0040-0000
35-25-28-00U0-0015-0000

This zoning map amendment has no impact on public school capacity.



THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGОВ & BLUEBEAM

ADDRESS: Hilliard Isle Blvd.
PLAN (DRC) NUMBER: ZMA-23-0002

DATE: 4/4/2023

**Review Status:
APPROVED.**

**OSCEOLA COUNTY SCHOOL DISTRICT - Tamara Pelc - 407.518.2964 ext. 65411 -
Tamara.Pelc@osceolaschools.net**

Comments/Conditions (if applicable): This zoning map amendment has no impact on public school capacity.

If you have any questions regarding the comments/conditions above, please use the contact information provided.

Please login to the Citizen Self Service portal at www.kissimmee.gov.energov to upload a response to comments.

Additional comments may be forthcoming as a result of revisions to the plans, any new changes in the information provided, future plan review up to plan approval and permitting and/or with submittal of supporting documentation. When submitting, please provide a response to comments outlining where and how the comments have been addressed.

DEVELOPMENT PROJECT COMMENT FORM



THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGОВ & BLUEBEAM

DATE: 3/29/2023

PROJECT: Hilliard Isle ROW Annexation

DRC NUMBER: AX-23-0001

REVIEW NUMBER: 1

Review Status:
APPROVED WITH CONDITIONS

ENGINEERING DEPARTMENT - Ryan Kilman - 407.518.2279 - Ryan.Kilman@kissimmee.gov

ADVISORY COMMENTS/CONDITIONS OF APPROVAL (No Responses Necessary):

- Approval is for annexation only.
- All applicable code requirements of the City of Kissimmee Code of Ordinances shall be adhered to for any proposed use(s) and its processes.
- If you have any questions regarding the comments/conditions above, please use the contact information provided above.

###



DISCLAIMER FOR ALL CITY OF KISSIMMEE DEVELOPMENT REVIEW APPLICATIONS

Important note: The Development Review process associated with this request (as outlined in the attached application) is intended to ensure that the request meets the requirements established in the City of Kissimmee Land Development Code and site development criteria for the City of Kissimmee, and other local, regional and state agencies. It is not intended to constitute approval of building construction or permits as required by external agencies.

Other processes, permits, authorizations, and/or fees may be required prior to construction of requested improvements. These may include, but are not limited to:

- ❖ Mobility/Impact Fees (Transportation, Water & Sewer, Recreation, School)
- ❖ Building permits and review fees
- ❖ Right-of-Way Utilization permits
- ❖ South Florida Water Management District (SFWMD) permits
- ❖ Utility permits and/or fees
- ❖ Federal Aviation Administration (FAA) authorizations
- ❖ Business Tax Receipts (BTRs)
- ❖ State Permits and/or Licenses
- ❖ Development Service Agreements (Toho Water Authority)
- ❖ Florida Department of Environmental Protection (FDEP) Permits
- ❖ NPDES Permits (Stormwater permitting)

The Agent of record and/or property owner for the attached request is responsible for coordinating with applicable agencies to ensure all requirements for the requested improvements have been met prior to construction.

Please read all information above and complete the lower portion of this disclaimer. This document must be signed by both agent and property owner and shall be included with the attached application. Failure to submit this form with the completed application will result in Staff finding the application to be insufficient for review and will delay your request.

Project Name: Hilliard Isle ROW Vacate Annex DRC# _____

I Certify that I have read the above and understand/acknowledge the information contained therein.

Agent Signature: Nathan Wolff Date: 2-23-2023

Agent Name (Print): Nathan Wolff

Property Owner Signature: _____ Date: 2-23-2023

Property Owner Name (Print): Hans Pistor



Katrina S. Scarborough, CFA, CCF, MCF
Osceola County Property Appraiser

Search: ☒ Address ☐ Owner ☐ PIN

Clear Results

Search

- Home
- Base Maps
- Layers
- Sales
- Identify
- Tools
- Print

Identify

Image Not Found

- TRIM Notice
 - Property Record Card
 - Tax Collector
 - NEW - Bird's Eye View**
- Info

Values

Building

Land

XFOB

Sales

Parcel	08-25-30-1534-0001-0010
Owner Name	NADINA CAPITAL GROUP LLC
Mailing Address	1000 COLOUR PL APOPKA, FL 32703
Physical Address	HILLIARD ISLE RD, KISSIMMEE FL 34744
Property Type	VACANT COMMERCIAL
Tax District	200 - KISSIMMEE
Acres	1.3
Desc	HILLIARD ISLE COMMERCIAL CENTER





Katrina S. Scarborough, CFA, CCF, MCF
Osceola County Property Appraiser
www.property-appraiser.org
Osceola County Government Center
2505 East Irla Bronson Memorial Hwy, Kissimmee, FL 34744
Ph: (407) 742-5000 Fax: (407) 742-4900

Parcel: 08-25-30-1534-0001-0010



Owner Information

Owner Name NADINA CAPITAL GROUP LLC

Mailing Address 1000 COLOUR PL
APOPKA, FL 32703

Physical Address HILLIARD ISLE RD, KISSIMMEE FL 34744

Description VACANT COMMERCIAL

Tax District 200 - KISSIMMEE

Tax Values

Current Values

Current Value represents working appraised values as of 02/22/2023, which are subject to change prior to certification

Land	\$793,500
AG Benefit	\$0
Extra Features	\$0
Buildings	\$0
Appraised(just)	\$793,500
Assessed(estimated)	\$382,173
Exemption(estimated)	\$0
Taxable(estimated)	\$382,173

* Assessed Values Reflect Adjustments for Agricultural Classification and/or the Save Our Homes Cap

Certified Values

Certified Value represents certified values that appeared on the tax roll as of 10/05/2022

Land	\$793,500
AG Benefit	\$0
Extra Features	\$0
Buildings	\$0
Appraised(just)	\$793,500
Assessed*	\$347,430
Exemption	\$0
Taxable	\$347,430

* Assessed Values Reflect Adjustments for Agricultural Classification and/or the Save Our Homes Cap

Sales Information

Seq	ORB-Pg	Price	Date	Deed Type
0	4254-2883	\$400,000	2012-03-29	SW
1	4211-2209	\$100	2011-12-15	CT

Land Information - Total Acreage: 1.30

Land Description	Units	Depth	Land Type	Land Value
COMMERCIAL SF	60112.80	0.00	SF	\$793,500

Legal Description

Legal Description	HILLIARD ISLE COMMERCIAL CENTER PB 21 PG 45 LOT 1 AND THAT PORTION OF VAC HILLIARD ISLE RD ABUTTING S SIDE
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CFN 2015175442
Bk 4876 Pgs 121-130 (10 Pgs)
DATE: 11/23/2015 10:00:59 AM
ARMANDO RAMIREZ, CLERK OF COURT
OSCEOLA COUNTY
RECORDING FEES \$0.00

Resolution No. 15-096R

A RESOLUTION APPROVING RV14-00006

WHEREAS, after filing of sworn Petition, Adoption of Resolution by the Board of County Commissioners of Osceola County, Florida, for hearing on petition and proper publication of Notice of Hearing on Petition to vacate, abandon and discontinue the portions of roads, streets and/or alleys shown on Osceola County Road Map Book 1, Pages 118-126 of the Public Records of Osceola County Florida and located in Section 8, Township 25 South, Range 30 East and being more particularly described in Exhibit A, attached hereto and incorporated herein, the Board of County Commissioners of Osceola County, Florida, did conduct a hearing on said Petition at its public meeting at 1:30 P.M. on Monday, November 9, 2015, at the County Administration Building in Kissimmee, Osceola County, Florida; and

WHEREAS, it appears to the said Board that the closing, vacating, abandoning and discontinuing of the said portions of roads, streets, and/or alleys will not deprive any person or persons of a reasonable means of ingress and egress to his premises from at least one County, State or Federal Highway and that, subject to retention of an ingress and egress, drainage, maintenance, and utility easement over, under and across the land described in Exhibit B attached hereto and incorporated herein, the said portions of roads, streets, and/or alleys should be closed, vacated, abandoned and discontinued.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Osceola County, Florida, that, except for an ingress and egress, drainage, maintenance, and utility easement which is hereby retained in the name of Osceola County, Florida over, under and across the land legally described in Exhibit B, the roads, streets, and/or alleys described in Exhibit A are hereby vacated, abandoned and closed and discontinued as public roads, streets and/or alleys, and that any right of the County and the public in and to the lands included in said portions of roads, streets, and/or alleys be, and the same is hereby forever renounced and disclaimed as right of way.

BE IT FURTHER RESOLVED that Notice of Adoption of this Resolution shall be published one time, within thirty (30) days following its adoption, in one issue of a newspaper of general circulation

published in Osceola County, Florida.

DONE AND ADOPTED by the Board of County Commissioners of Osceola County, Florida, at
its meeting of the 9th of November, 2015.

BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA

BY: [Signature]
Chairman/Vice-Chairman

ATTEST:
OSCEOLA COUNTY CLERK OF THE BOARD

By: [Signature]
Clerk/Deputy Clerk to the Board

As authorized for execution at the Board of
County Commissioners meeting of:

11-9-15
Resolution 15-096R
RV14-00006



Exhibit A

Vacated, abandoned and closed public roads, streets and/or alleys

Legal Description

A parcel of land being a portion of former Hilliard Island Road alignment as shown on Osceola County Road Map Book 1, Pages 118-126 of the Public Records of Osceola County, Florida and located in Section 8, Township 25 South, Range 30 East and being more particularly described as follows:

Commence at the Southwest corner of Lot 1, HILLIARD ISLAND COMMERCIAL CENTER, as recorded in Plat Book 21, Page 45 of the Public Records of Osceola County, Florida, said point being a point on a curve, concave to the Northeast, having a Radius of 24.01 feet and Central Angle of 11°55'39"; thence along the South line of said Lot 1 the following two (2) courses and distances; thence run Easterly along the Arc of said curve, a distance of 5.00 feet (Chord Bearing = S68°22'08"E, Chord = 4.99 feet to the Point of Tangency thereof; thence run N87°21'58"E, a distance of 0.15 feet to the Point of Beginning; thence along the South line of said Lot 1 the following three (3) courses and distances; thence run N87°21'58"E, a distance of 78.01 feet; thence run S88°36'49"E, a distance of 166.47 feet; thence run S89°56'04"E, a distance of 114.21 feet to a point on the South Right of Way line of Hilliard Island Road; thence run S56°09'33"E, along said South Right of Way line, a distance of 39.97 feet; thence run S55°47'29"E, a distance of 81.85 feet to a point on the South Maintained Right of Way line of Hilliard Island Road as shown on aforesaid Osceola County Road Map Book 1, Pages 118-126; thence along said South Maintained Right of Way line the following seven courses and distances; thence run S89°17'43"W, a distance of 140.45 feet; thence run N13°33'32"E, a distance of 9.62 feet; thence run S89°44'59"W, a distance of 76.84 feet; thence run S87°58'45"W, a distance of 141.43 feet; thence run S85°00'54"W, a distance of 67.54 feet; thence run S82°16'44"W, a distance of 38.05 feet; thence run S77°16'48"W, a distance of 60.48 feet to a point 70 feet off the future centerline of Simpson Road; thence run N33°50'27"E along said 70 ft line, a distance of 109.37 feet to the Point of Beginning.

Containing 29,964.91 square feet or 0.6879 acres, more or less.

Exhibit B

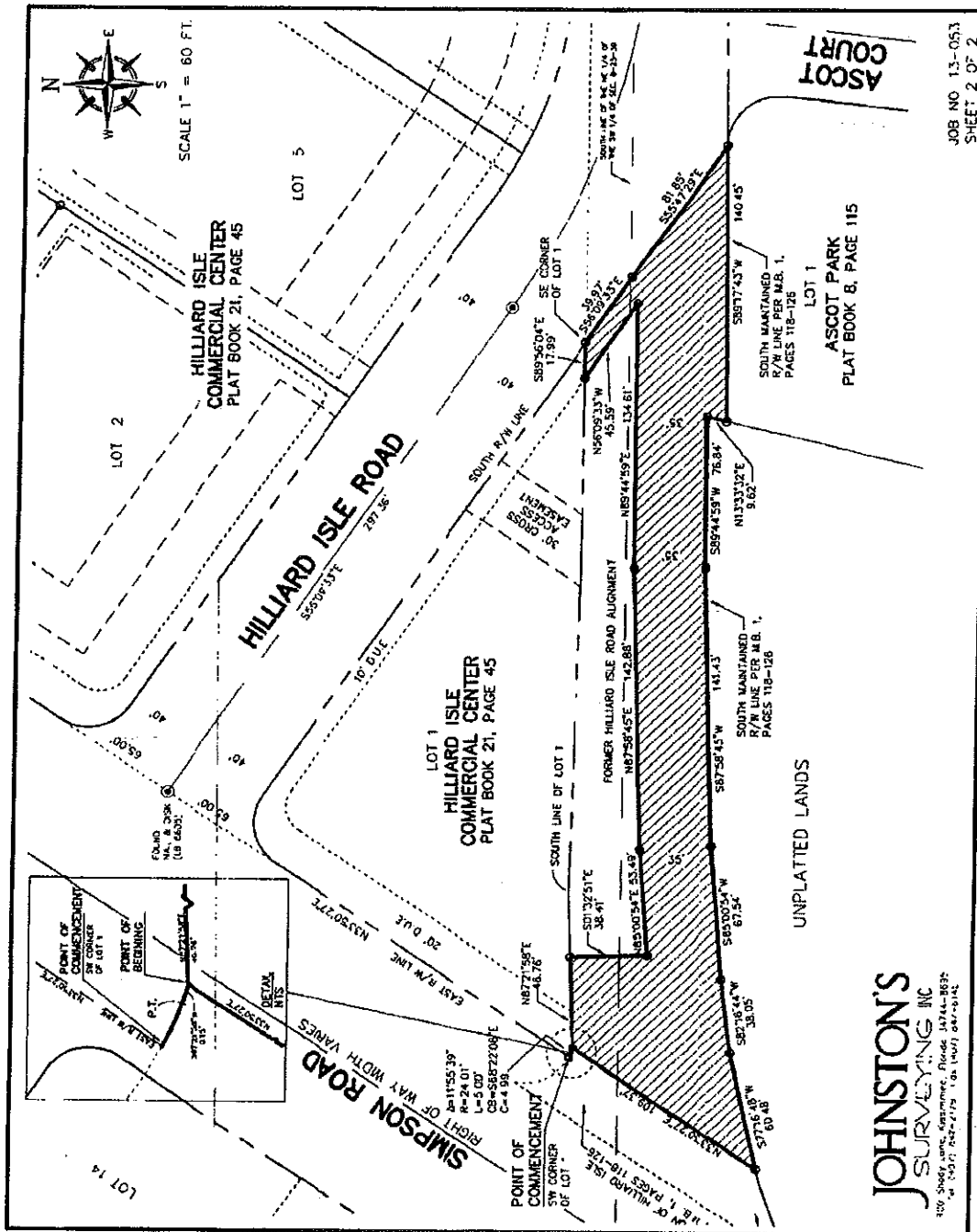
Ingress and Egress, Drainage, Maintenance, and Utility Easement

Legal Description

A parcel of land being a portion of former Hilliard Island Road alignment as shown on Osceola County Road Map Book 1, Pages 118-126 of the Public Records of Osceola County, Florida and located in Section 8, Township 25 South, Range 30 East and being more particularly described as follows:

Commence at the Southwest corner of Lot 1, HILLIARD ISLAND COMMERCIAL CENTER, as recorded in Plat Book 21, Page 45 of the Public Records of Osceola County, Florida, said point being a point on a curve, concave to the Northeast, having a Radius of 24.01 feet and Central Angle of 11°55'39"; thence along the South line of said Lot 1 the following two (2) courses and distances; thence run Easterly along the Arc of said curve, a distance of 5.00 feet (Chord Bearing = S68°22'08"E, Chord = 4.99 feet to the Point of Tangency thereof; thence run N87°21'58"E, a distance of 0.15 feet to the Point of Beginning; thence run N87°21'58"E, along the South line of said Lot 1, a distance of 46.76 feet; thence departing said South line, run S01°32'51"E, a distance of 38.41 feet; thence run N85°00'54"E, a distance of 53.49 feet; thence run N87°58'45"E, a distance of 142.88 feet; thence run N89°44'59"E, a distance of 134.61 feet; thence run N56°09'33"W, a distance of 45.59 feet to a point on the aforesaid South line of Lot 1; thence run S89°56'04"E along said South line, a distance of 17.99 feet to the Southeast corner of said Lot 1 and a point on the South Right of Way line of Hilliard Isle Road; thence run S56°09'33"E, along said South Right of Way line, a distance of 39.97 feet; thence run S55°47'29"E, a distance of 81.85 feet to a point on the South Maintained Right of Way line of said Hilliard Isle Road as shown on Osceola County Road Map Book 1, Pages 118-126; thence along said South Maintained Right of Way line the following seven (7) courses and distance; thence run S89°17'43"W, a distance of 140.45 feet; thence run N13°33'32"E, a distance of 9.62 feet; thence run S89°44'59"W, a distance of 76.84 feet; thence run S87°58'45"W, a distance of 141.43 feet; thence run S85°00'54"W, a distance of 67.54 feet; thence run S82°16'44"W, a distance of 38.05 feet; thence run S77°16'48"W, a distance of 67.54 feet; thence run S82°16'44"W, a distance of 38.05 feet; thence run S77°16'48"W, a distance of 60.48 feet to a point 70 feet off of the future centerline of Simpson Road; thence run N33°50'27"E along said 70 foot line, a distance of 109.37 feet to the Point of Beginning.

Containing 20,661.41 square feet or 0.4743 acres, more or less.



**NOTICE OF PROCEEDINGS FOR THE CLOSING OF ROADS
RV 14-00006**

TO WHOM IT MAY CONCERN:

YOU WILL TAKE NOTICE that the Board of County Commissioners of Osceola County, Florida, upon sworn petition of qualified landowners, will be at 1:30 p.m. on the 9th day of November, A.D., 2015, or as soon thereafter as the matter may be heard and considered, at its office in the County Administration Building in Kissimmee, Florida, determine or not the County of Osceola will vacate, abandon and discontinue, renounce and disclaim any and all right and title of the County of Osceola, a political subdivision of the State of Florida, and the public, in and to a portion of the former Hilliard Island Road alignment as shown and delineated on Osceola County Road Map Book 1, Pages 118-126 of the Public Records of Osceola County, Florida and located in Section 8, Township 25 South, Range 30 East and being more particularly described as follows, to wit:

Legal Description:

A parcel of land being a portion of former Hilliard Island Road alignment as shown on Osceola County Road Map Book 1, Pages 118-126 of the Public Records of Osceola County, Florida and located in Section 8, Township 25 South, Range 30 East and being more particularly described as follows:

Commence at the Southwest corner of Lot 1, HILLIARD ISLAND COMMERCIAL CENTER, as recorded in Plat Book 21, Page 45 of the Public Records of Osceola County, Florida, said point being a point on a curve, concave to the Northeast, having a Radius of 24.01 feet and Central Angle of 11°55'39"; thence along the South line of said Lot 1 the following two (2) courses and distances; thence run Easterly along the Arc of said curve, a distance of 5.00 feet (Chord Bearing = S68°22'08"E, Chord = 4.99 feet to the Point of Tangency thereof; thence run N87°21'58"E, a distance of 0.15 feet to the Point of Beginning; thence along the South line of said Lot 1 the following three (3) courses and distances; thence run N87°21'58"E, a distance of 78.01 feet; thence run S88°36'49"E, a distance of 166.47 feet; thence run S89°56'04"E, a distance of 114.21 feet to a point on the South Right of Way line of Hilliard Island Road; thence run S56°09'33"E, along said South Right of Way line, a distance of 39.97 feet; thence run S55°47'29"E, a distance of 81.85 feet to a point on the South Maintained Right of Way line of Hilliard Island Road as shown on aforesaid Osceola County Road Map Book 1, Pages 118-126; thence along said South Maintained Right of Way line the following seven courses and distances; thence run S89°17'43"W, a distance of 140.45 feet; thence run N13°33'32"E, a distance of 9.62 feet; thence run S89°44'59"W, a distance of 76.84 feet; thence run S87°58'45"W, a distance of 141.43 feet; thence run S85°00'54"W, a distance of 67.54 feet; thence run S82°16'44"W, a distance of 38.05 feet; thence run S77°16'48"W, a distance of 60.48 feet to a point 70 feet off the future centerline of Simpson Road; thence run N33°50'27"E along said 70 ft line, a distance of 109.37 feet to the Point of Beginning.

Containing 29,964.91 square feet or 0.6879 acres, more or less..

The said portions of streets, roads, and/or alleys lie outside the corporate limits of any municipality in Osceola County, Florida. Persons interested may appear and be heard at the time and place above specified.

BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA

BY: [Signature]
Chairman/Vice-Chairman

ATTEST:
OSCEOLA COUNTY CLERK OF THE BOARD

By: [Signature]
Clerk/Deputy Clerk to the Board
BCC approved 11-9-15
Notice of Proceedings RV14-0006



NOTICE OF ADOPTION OF RESOLUTION

**15-096R
RV14-00006**

NOTICE IS HEREBY GIVEN, that on the 9th day of November, A.D. 2015, the Board of County Commissioners of Osceola County, Florida, adopted a Resolution vacating, abandoning, and discontinuing as a public road or street and forever renouncing and disclaiming any right of the County of Osceola, State of Florida, and the public, in and to a portion of the former Hilliard Island Road alignment as shown and delineated on Osceola County Road Map Book 1, Pages 118-126 of the Public Records of Osceola County, Florida and located in Section 8, Township 25 South, Range 30 East and being more particularly described as follows, to wit:

Legal Description

A parcel of land being a portion of former Hilliard Island Road alignment as shown on Osceola County Road Map Book 1, Pages 118-126 of the Public Records of Osceola County, Florida and located in Section 8, Township 25 South, Range 30 East and being more particularly described as follows:

Commence at the Southwest corner of Lot 1, HILLIARD ISLAND COMMERCIAL CENTER, as recorded in Plat Book 21, Page 45 of the Public Records of Osceola County, Florida, said point being a point on a curve, concave to the Northeast, having a Radius of 24.01 feet and Central Angle of 11°55'39"; thence along the South line of said Lot 1 the following two (2) courses and distances; thence run Easterly along the Arc of said curve, a distance of 5.00 feet (Chord Bearing = S68°22'08"E, Chord = 4.99 feet to the Point of Tangency thereof; thence run N87°21'58"E, a distance of 0.15 feet to the Point of Beginning; thence along the South line of said Lot 1 the following three (3) courses and distances; thence run N87°21'58"E, a distance of 78.01 feet; thence run S88°36'49"E, a distance of 166.47 feet; thence run S89°56'04"E, a distance of 114.21 feet to a point on the South Right of Way line of Hilliard Island Road; thence run S56°09'33"E, along said South Right of Way line, a distance of 39.97 feet; thence run S55°47'29"E, a distance of 81.85 feet to a point on the South Maintained Right of Way line of Hilliard Island Road as shown on aforesaid Osceola County Road Map Book 1, Pages 118-126; thence along said South Maintained Right of Way line the following seven courses and distances; thence run S89°17'43"W, a distance of 140.45 feet; thence run N13°33'32"E, a distance of 9.62 feet; thence run S89°44'59"W, a distance of 76.84 feet; thence run S87°58'45"W, a distance of 141.43 feet; thence run S85°00'54"W, a distance of 67.54 feet; thence run S82°16'44"W, a distance of 38.05 feet; thence run S77°16'48"W, a distance of 60.48 feet to a point 70 feet off the future centerline of Simpson Road; thence run N33°50'27"E along said 70 ft line, a distance of 109.37 feet to the Point of Beginning.

Containing 29,964.91 square feet or 0.6879 acres, more or less.

BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA

BY: [Signature]
Chairman/Vice-Chairman

ATTEST:
OSCEOLA COUNTY CLERK OF THE BOARD

By: [Signature]
Clerk/Deputy Clerk to the Board
BCC Approved 11-09-15
Notice of Adoption RV14-00006
Resolution 15-096R



LEGAL DESCRIPTION

RIGHT OF WAY VACATION HILLIARD ISLE ROAD

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of the Northeast 1/4 of the Southwest 1/4 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 00°13'31" West, along the East line of the Northeast 1/4 of the Southeast 1/4 of said Section 8, for a distance of 43.99 feet to a point on the South right of way line of Hilliard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 89°17'43" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 8°17'43" West, along said South right of way line, for a distance of 188.08 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a distance of 9.62 feet; thence run South 89°44'59" West for a distance of 76.84 feet; thence run South 87°58'45" West for a distance of 141.43 feet; thence run South 85°00'54" West for a distance of 67.54 feet; thence run South 82°16'44" West for a distance of 38.05 feet; thence run South 77°16'48" West for a distance of 67.66 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeasterly right of way line of Boggy Creek Road; thence departing said South right of way line, run North 33°50'27" East, along the said Southeasterly right of way line of Boggy Creek Road, for a distance of 167.77 feet to a point on the North right of way line of said Hilliard Isle Road, said point being a point on a curve, concave Northeasterly, having a radius of 24.01 feet, a chord bearing of South 31°05'18" East and a chord distance of 33.10 feet; thence run Southeasterly along the arc of said curve through a central angle of 87°07'13" for an arc distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 87°21'58" East for a distance of 78.16 feet; thence run South 88°36'49" East for a distance of 166.47 feet; thence run South 89°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 56°09'33" East for a distance of 39.97 feet to the point of curvature of a curve, concave Northeasterly, having a radius of 290.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.94 feet; thence run Southeasterly along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.90 feet to the POINT OF BEGINNING.

Containing 37,474 square feet, or 0.79 acres, more or less.

SHEET 1 OF 3



213 S. Dillard Street, Suite 210
Winter Garden, Florida 34787 • (407) 654-5355

SURVEYOR'S NOTES:

1. THIS IS NOT A SURVEY.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8-25-30 AS HAVING AN ASSUMED BEARING OF SOUTH 00°13'31" WEST.

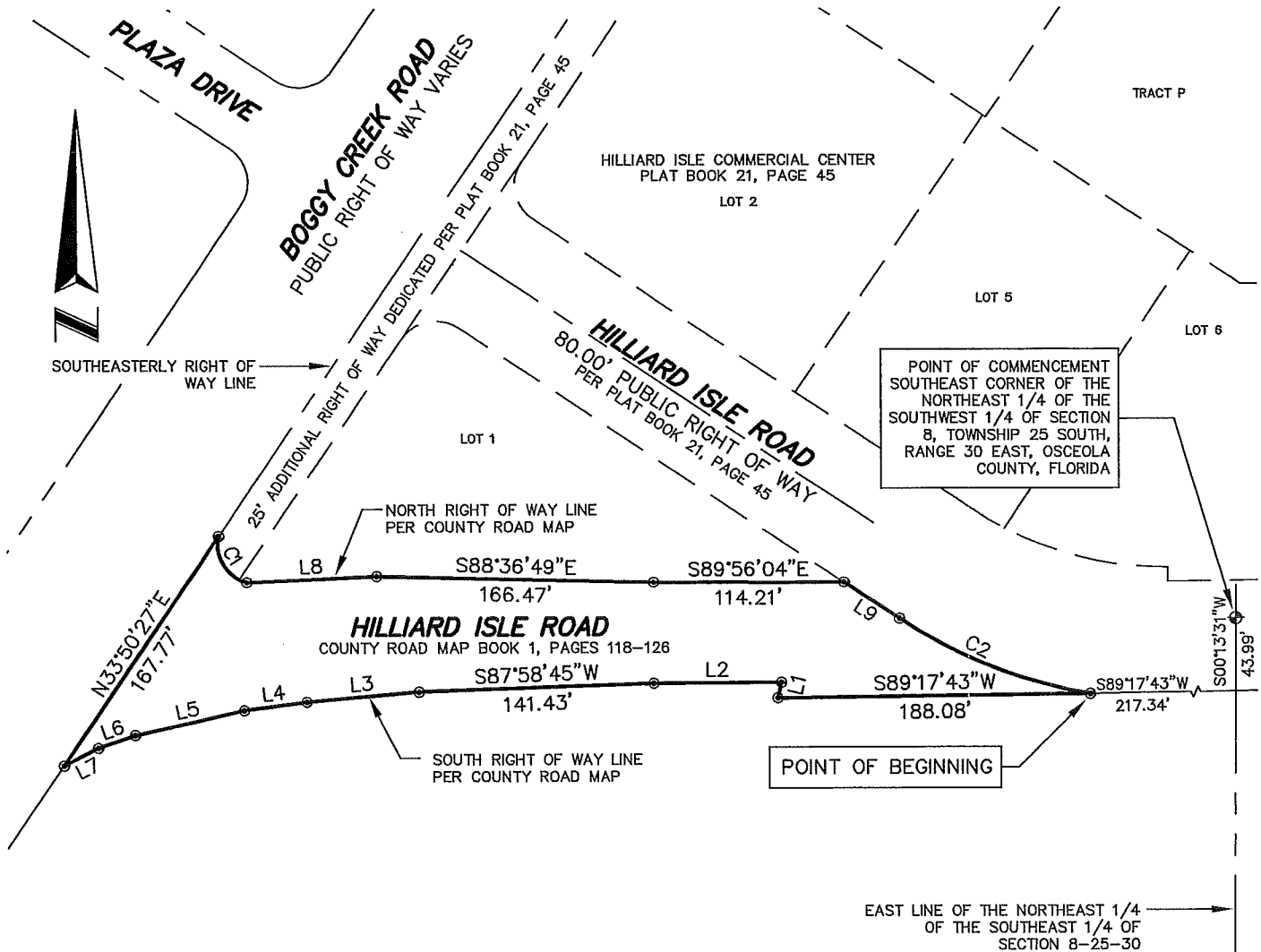
JOB NO. 20120017
DATE: MAY 9, 2012
SCALE: 1 INCH = 100 FEET
FIELD BY: N/A

CALCULATED BY: EGT
DRAWN BY: EGT
CHECKED BY: JLR

FOR THE LICENSED BUSINESS #6723 BY:

JAMES L. RICKMAN, PSM #5633

SKETCH OF DESCRIPTION



SHEET 2 OF 3



213 S. Dillard Street, Suite 210
Winter Garden, Florida 34787 * (407) 654-5355

SURVEYOR'S NOTES:

1. THIS IS NOT A SURVEY.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8-25-30 AS HAVING AN ASSUMED BEARING OF SOUTH 00°13'31" WEST.

JOB NO. 20120017

DATE: MAY 9, 2012

SCALE: 1 INCH = 100 FEET

FIELD BY: N/A

CALCULATED BY: EGT

DRAWN BY: EGT

CHECKED BY: JLR

LINE AND CURVE TABLES

LINE TABLE		
LINE	LENGTH	BEARING
L1	9.62'	N13°33'32"E
L2	76.84'	S89°44'59"W
L3	67.54'	S85°00'54"W
L4	38.05'	S82°16'44"W
L5	67.66'	S77°16'48"W
L6	23.45'	S70°37'29"W
L7	23.30'	S62°20'20"W
L8	78.16'	N87°21'58"E
L9	39.97'	S56°09'33"E

CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	CHORD BEARING	DELTA
C1	24.01'	36.51'	33.10'	S31°05'18"E	87°07'13"
C2	290.00'	124.90'	123.94'	S68°29'54"E	24°40'37"

SHEET 3 OF 3



213 S. Dillard Street, Suite 210
Winter Garden, Florida 34787 * (407) 654-5355

SURVEYOR'S NOTES:

1. THIS IS NOT A SURVEY.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8-25-30 AS HAVING AN ASSUMED BEARING OF SOUTH 00°13'31" WEST.

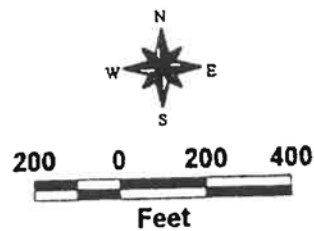
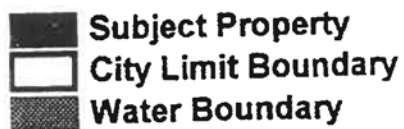
JOB NO. 20120017
DATE: MAY 9, 2012
SCALE: 1 INCH = 100 FEET
FIELD BY: N/A

CALCULATED BY: EGT
DRAWN BY: EGT
CHECKED BY: JLR

**Devon's Park Place
A.K.A Hilliard Place
Annexation
DRC# 00-036**

CL 2002022733

OR 1998/2463



January 18, 2001
Community Development Dept.

"HILLIARD ISLE COMMERCIAL CENTER"

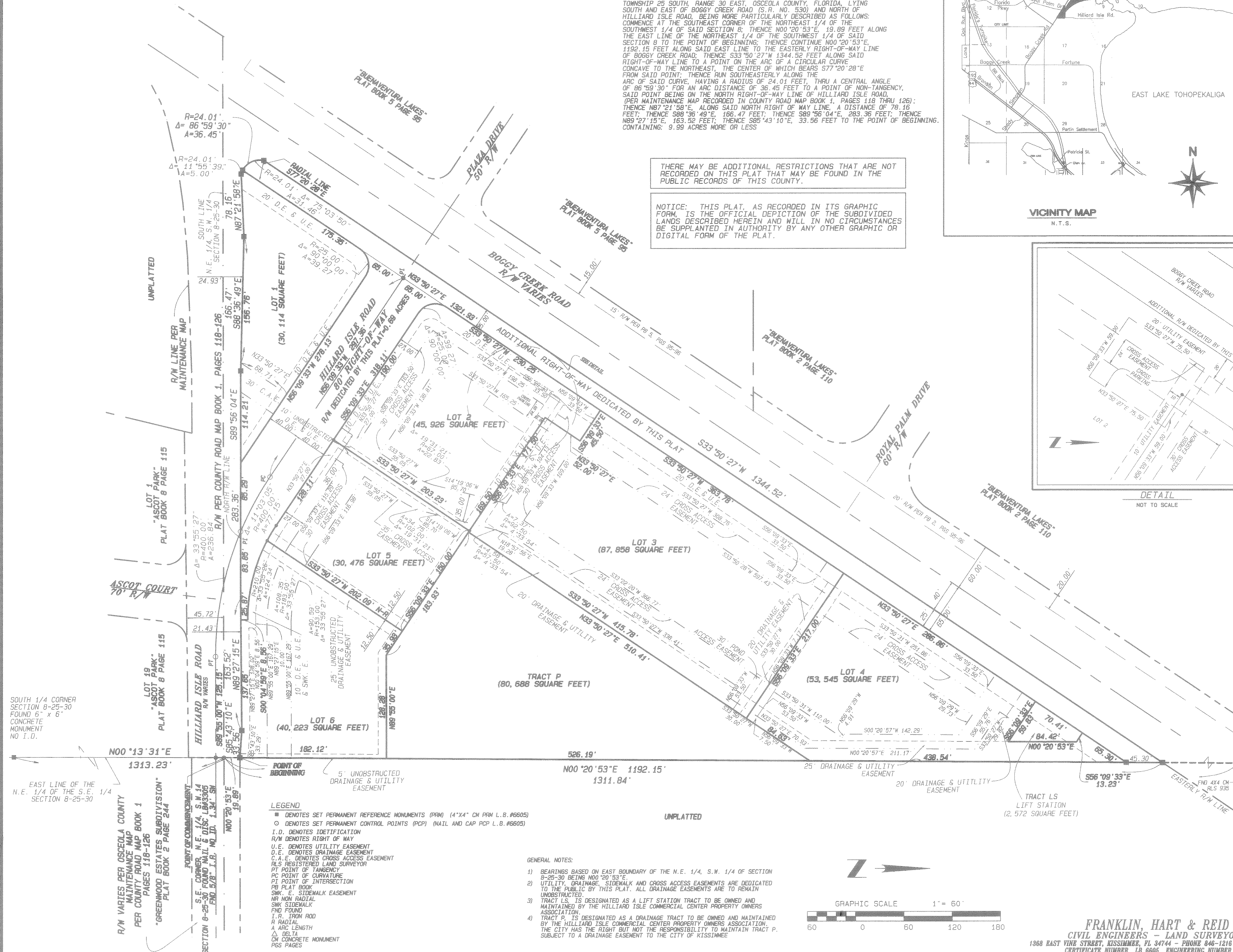
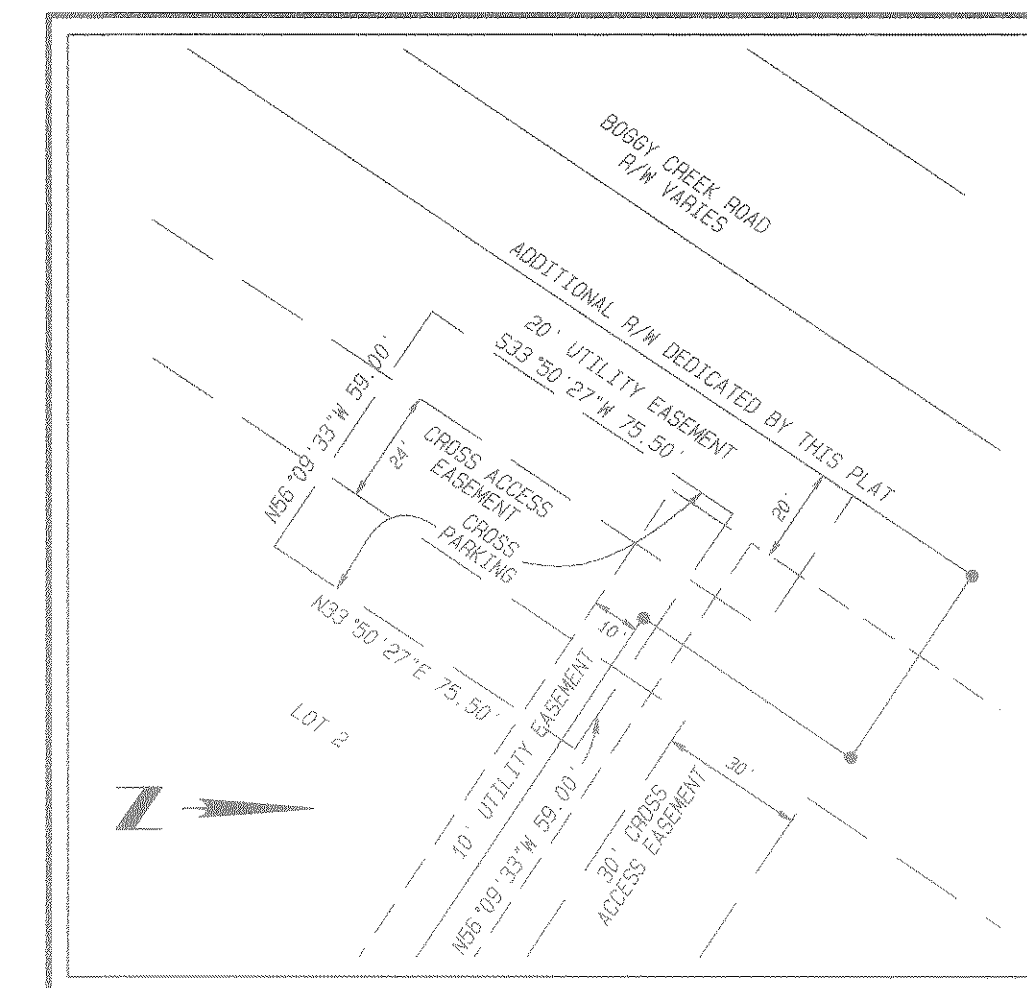
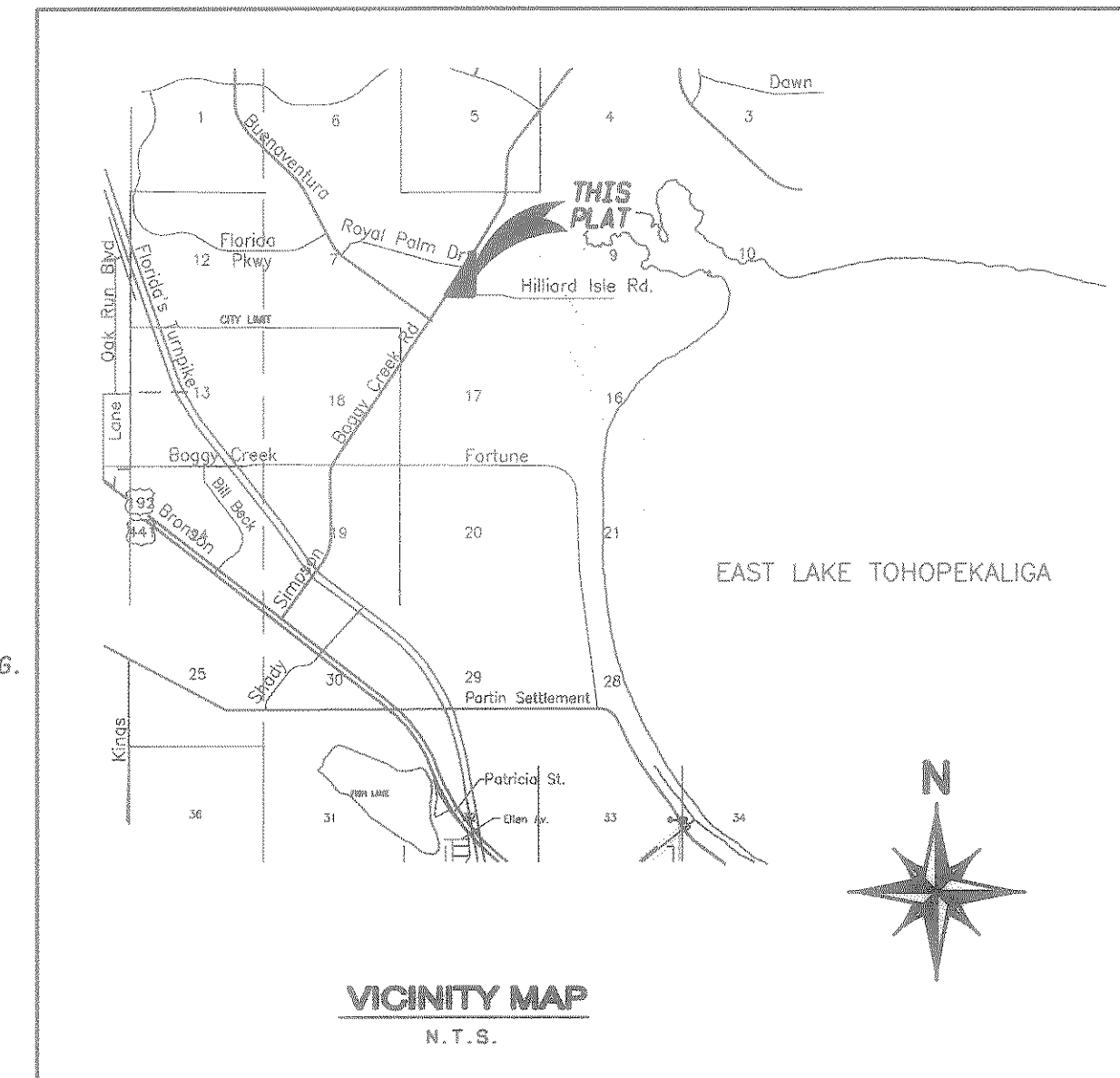
A PORTION OF SECTION 8 - TOWNSHIP 25 SOUTH - RANGE 30 EAST
CITY OF KISSIMMEE, OSCEOLA COUNTY, FLORIDA

DESCRIPTION:

A PORTION OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 25 SOUTH, RANGE 30 EAST, OSCEOLA COUNTY, FLORIDA, LYING SOUTH AND EAST OF BOGGY CREEK ROAD (S.R. NO. 530) AND NORTH OF HILLIARD ISLE ROAD, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 8; THENCE N00°20'53"E, 19.89 FEET ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 8 TO THE POINT OF BEGINNING; THENCE CONTINUE N00°20'53"E, 1192.15 FEET ALONG SAID EAST LINE TO THE EASTERLY RIGHT-OF-WAY LINE OF BOGGY CREEK ROAD; THENCE S33°50'27"W 1344.52 FEET ALONG SAID RIGHT-OF-WAY LINE TO A POINT ON THE ARC OF A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, THE CENTER OF WHICH BEARS S77°20'28"E FROM SAID POINT; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 24.01 FEET, THRU A CENTRAL ANGLE OF 86°59'30" FOR AN ARC DISTANCE OF 36.45 FEET TO A POINT OF NON-TANGENCY, SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF HILLIARD ISLE ROAD, (PER MAINTENANCE MAP RECORDED IN COUNTY ROAD MAP BOOK 1, PAGES 118 THRU 126); THENCE N87°21'58"E, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 78.16 FEET; THENCE S88°36'49"E, 166.47 FEET; THENCE S89°56'04"E, 283.36 FEET; THENCE N89°27'15"E, 163.52 FEET; THENCE S88°43'10"E, 33.56 FEET TO THE POINT OF BEGINNING, CONTAINING: 9.99 ACRES MORE OR LESS

THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

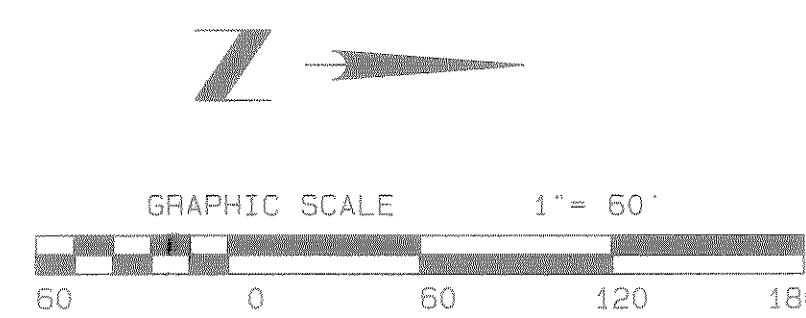
NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT.



- LEGEND**
- DENOTES SET PERMANENT REFERENCE MONUMENTS (PRM) (4"x4" CH PRM L.B.#6605)
 - DENOTES SET PERMANENT CONTROL POINTS (PCP) (NAIL AND CAP PCP L.B.#6605)
 - I.D. DENOTES IDENTIFICATION
 - R/W DENOTES RIGHT OF WAY
 - U.E. DENOTES UTILITY EASEMENT
 - D.E. DENOTES DRAINAGE EASEMENT
 - C.A.C. DENOTES CROSS ACCESS EASEMENT
 - PLS REGISTERED LAND SURVEYOR
 - PT POINT OF TANGENCY
 - PC POINT OF CURVATURE
 - PI POINT OF INTERSECTION
 - PR PLAT BOOK
 - SWK E. SIDEWALK EASEMENT
 - NR NON RADIAL
 - SWK SIDEWALK
 - PR PLAT BOOK
 - I.R. IRON ROD
 - P. RADIAL
 - A. ARC LENGTH
 - Δ. DELTA
 - CM CONCRETE MONUMENT
 - PGS PAGES

GENERAL NOTES:

- BEARINGS BASED ON EAST BOUNDARY OF THE N.E. 1/4, S.W. 1/4 OF SECTION 8-25-30 BEING N00°20'53"E
- UTILITY, DRAINAGE, SIDEWALK AND CROSS ACCESS EASEMENTS ARE DEDICATED TO THE PUBLIC BY THIS PLAT. ALL DRAINAGE EASEMENTS ARE TO REMAIN UNOBTAINED.
- TRACT LS IS DESIGNATED AS A LIFT STATION TRACT TO BE OWNED AND MAINTAINED BY THE HILLIARD ISLE COMMERCIAL CENTER PROPERTY OWNERS ASSOCIATION.
- TRACT P IS DESIGNATED AS A DRAINAGE TRACT TO BE OWNED AND MAINTAINED BY THE HILLIARD ISLE COMMERCIAL CENTER PROPERTY OWNERS ASSOCIATION. THE CITY HAS THE RIGHT BUT NOT THE RESPONSIBILITY TO MAINTAIN TRACT P, SUBJECT TO A DRAINAGE EASEMENT TO THE CITY OF KISSIMMEE



FRANKLIN, HART & REID
CIVIL ENGINEERS - LAND SURVEYORS
1368 EAST VINE STREET, KISSIMMEE, FL 34744 - PHONE 846-1216 - FAX 846-0037
CERTIFICATE NUMBER LB 6605 ENGINEERING NUMBER 8336

PLAT BOOK **21** PAGE **45**

"HILLIARD ISLE COMMERCIAL CENTER" DEDICATION

KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED, BEING THE OWNER IN FEE SIMPLE OF THE LANDS DESCRIBED IN THE FOREGOING CAPTION TO THIS PLAT, HEREBY DEDICATES SAID LANDS AND PLAT FOR THE USES AND PURPOSES HEREON EXPRESSED, THE RIGHT OF WAY FOR HILLIARD ISLE ROAD AND ADDITIONAL RIGHT OF WAY FOR BOGGY CREEK ROAD, AND THE DRAINAGE, UTILITY AND CROSS ACCESS EASEMENTS SHOWN HEREON SHALL BE DEDICATED TO THE PERPETUAL USE OF THE PUBLIC.

IN WITNESS WHEREOF, HAS CAUSED THESE PRESENTS TO BE SIGNED AND ATTESTED TO BY THE OFFICERS NAMED BELOW AND IT'S CORPORATE SEAL TO BE AFFIXED HERETO ON

BY: Barry Compton

WITNESS:

BY:

SIGNED AND SEALED IN THE PRESENCE OF:
Shirley J. Furman
Chanda S. Davis
Chanda S. Davis
STATE OF FLORIDA COUNTY OF OSCEOLA

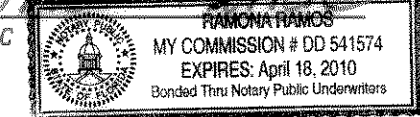
THIS IS TO CERTIFY, THAT ON AUGUST 2, 2007

BEFORE ME, AN OFFICER DULY AUTHORIZED TO TAKE ACKNOWLEDGMENTS IN THE STATE AND COUNTY AFORESAID, PERSONALLY APPEARED TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND SEVERALLY ACKNOWLEDGED THE EXECUTION THEREOF TO BE THE FREE ACT AND DEED FOR THE PURPOSES THEREIN EXPRESSED.

IN WITNESS WHEREOF, I HAVE HERETO SET MY

HAND AND SEAL ON THE ABOVE DATE.

NOTARY PUBLIC



MY COMMISSION EXPIRES 4/18/2010

QUALIFICATION AND STATEMENT OF SURVEYOR AND MAPPER

KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED, IS A LICENSED AND REGISTERED SURVEYOR AND MAPPER, THAT THE FOREGOING PLAT WAS PREPARED BY HIM OR UNDER HIS SUPERVISION; THAT PERMANENT REFERENCE MONUMENTS HAVE BEEN PLACED AND PERMANENT CONTROL POINTS HAVE BEEN OR WILL BE PLACED AS REQUIRED BY ALL STATE AND LOCAL REGULATIONS AND THAT THIS PLAT COMPLIES WITH ALL SURVEY REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES AND OSCEOLA COUNTY MINIMUM LAND SUBDIVISION REGULATIONS. THE LAND DESCRIBED HEREON LIES IN SECTION 8, TOWNSHIP 25 SOUTH, RANGE 30 EAST, OSCEOLA COUNTY, FLORIDA.

FRANKLIN, HART & REID
CERTIFICATE OF AUTHORIZATION NUMBER LB 6605
1368 EAST VINE STREET
KISSIMMEE, FLORIDA 34744
PHONE: (407) 846-1216

DATE: 8/1/07 BY: William C. Hart
FLORIDA REGISTERED SURVEYOR AND MAPPER
REGISTRATION NO. PSM 3904

CERTIFICATE OF APPROVAL BY CITY SURVEYOR

Upon a review, This Plat was found to be in compliance with Chapter 177 F.S.

SURVEYOR'S NAME: Robert Bertrand

SIGNATURE: Robert Bertrand

REGISTRATION NUMBER: 4087 DATE: 5-24-2008
Florida Professional Surveyor and Mapper Representing
Kissimmee, Florida

CERTIFICATE OF APPROVAL BY MUNICIPALITY

THIS IS TO CERTIFY, That on April 1, 2008
that the foregoing plat was approved by the City
Commission of the City of Kissimmee, Florida.

Mayor: Jim Swan

ATTEST:

CITY CLERK: Mike Steigerwald

CERTIFICATE OF COUNTY CLERK

I HEREBY CERTIFY, That I have examined the foregoing plat and find that it complies in form with all the requirements of Chapter 177, Florida Statutes and the Osceola County Minimum Land Subdivision Regulations and was filed for record on

May 23, 2008 at 1:57 PM

File No. 2008088571

Larry Whaley

Clerk of the Circuit Court in and for Osceola County, Florida

By: Aaron McKel D.C.

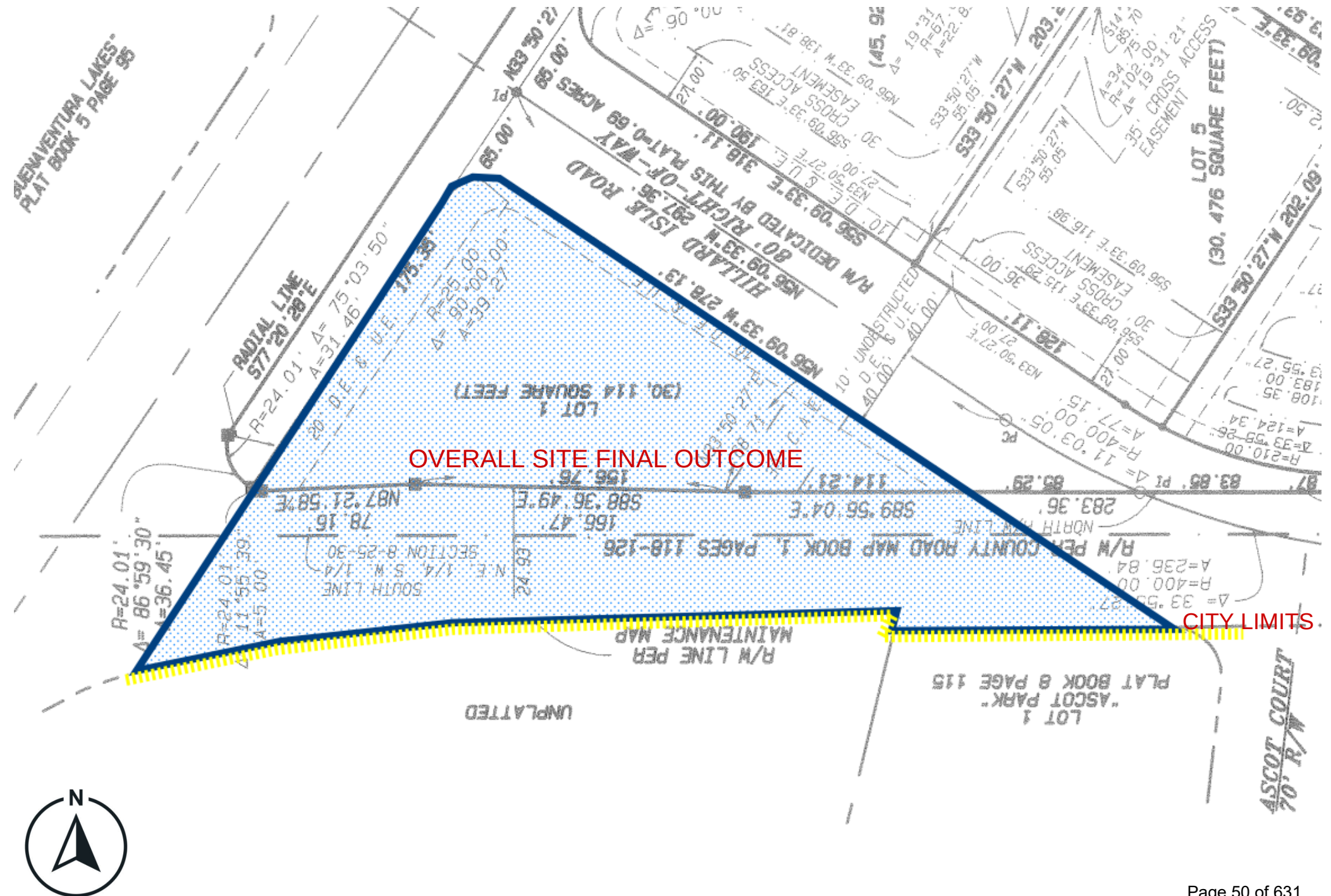


- 2000 Annexation
- 2008 Hilliard Isle Road Realignment
- 2015 Hilliard Isle South ROW Vacation





EXHIBIT "B"



Published Daily
ORANGE County, Florida

Sold To:

City of Kissimmee Planning Services - CU80085212
101 Church St, Ste 110
Kissimmee, FL, 34741

Bill To:

City of Kissimmee Planning Services - CU80085212
101 Church St, Ste 110
Kissimmee, FL, 34741

**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 25, 2023.

Affiant further says that the newspaper complies with all legal requirements
for publication in Chapter 50, Florida Statutes.



Signature of Affiant

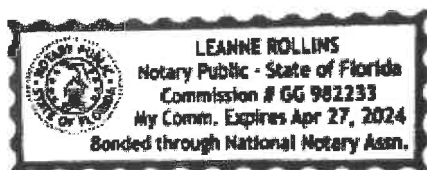
Rose Williams

Name of Affiant

Sworn to and subscribed before me on this 26 day of October, 2023,
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

Jumble

Unscramble these letters to form four ordinary words.

REETX
SABHR
WHRGOT
OTTPIE

Arrange circled letters to form answer, as suggested by cartoon.

W H R G O T

Goren on Bridge

East-West vulnerable, South deals

NORTH
K J 10 9 8 3
8 4
J 8 6
5 2

WEST
Q 7 5 4
J 6 3
K 9 4 3
J 10

EAST
6 2
10 9
10 7 2
Q 9 8 7 6 3

South
A
K Q 7 5 2
A Q 5
A K 4

The bidding:
SOUTH WEST NORTH EAST
2 Pass 2 Pass
2 Pass 2 Pass
3 Pass 4 Pass
6 All pass

Opening lead: Jack of A
South fell in love with his wonderful hand. His leap to slam was not really justified, but who could blame him?
South won the opening club lead in hand with the ace. He had 10 tricks, provided the trumps split 3-2, and another could be established in dia-

Sudoku Puzzle

Complete the grid so that every row, column and 3x3 box contains every digit from 1 to 9 inclusively.

Level 2	2	3	4	5				
	5			6			8	
	9			3		8	5	
	1	8		9		4		
	6	5	4			7		
	8							3
	7		6					9
	6	5				2		

With Bob Jones

monds. A twelfth trick might come from a club ruff, or the king of spades if he could ever get to dummy. He cashed the ace of spades first, instead of relying on the ability to ruff a club, he led the queen of diamonds from his hand! Should an opponent win this with the king, the jack in dummy would become an entry. West, a wily veteran, gave the queen an evil look before ducking his king.

South continued by cashing the king of clubs and leading another club. The final club suit prevented him from ruffing a club, but when West ruffed with the jack of hearts declarer discarded a diamond from dummy. West led a trump, but South won, cashed the ace of diamonds, and ruffed a diamond in dummy. He crossed back to his hand with a spade ruff, drew trumps, and claimed his slam. Well done!

Note the importance of playing on diamonds before trying to ruff a club. The diamond discard from dummy would have done him no good without first securing his second diamond trick.
Bob Jones welcomes readers' responses sent in care of this newspaper or to Tribune Content Agency, LLC, 16650 Westgrove Dr., Suite 175, Addison, TX 75001. Email responses may be sent to truedel@tribune.com.
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Crossword

ACROSS

- Whom, quantity
- Religious subdivisions
- Injury reminder
- Hoosier hooper
- Sunlit courtyards
- Large volume
- "Attractive"
- Orlando's false friend
- Marketplaces on smartphones
- Unrelenting mamma
- Place to stop on an RV trip
- "Nuts!"
- Replayed tennis serve
- Not particularly inspiring
- Thin rails
- Fundamental
- Pulitzer winner Ferber
- Many an emoji, and a feature of the stained glass and their answers?
- Pedal pushers
- Heeds
- Expert in Islamic law
- Breakfast brand
- Sunscreen letters
- "Amazing!"
- Function
- Say "y'all" say
- Without a rival
- Big furs
- "Delicious!"
- Site with tutorials
- Water filter brand
- Plain text
- Cut, as a log
- Meal that gets tossed
- More rational

DOWN

- Bark elicitor

- Breakfast brand
- Winter carnival structure
- Gumshoes
- Latin 101 verb
- Pevic bones
- Old anesthetic
- Like potato chips but not mashed potatoes
- Metal derived from cassette
- Drop
- Sutans
- South American memorial related to the moon
- Pharmaceutical
- Spread of cultural ideas, e.g.
- "A chance!"
- Singer-songwriter
- Amazon's arrow smile, e.g.

- Letter-shaped girder
- International fashion magazine
- Made shorter, in a way
- Go known for travelers' checks
- Buddy letters
- Photograph
- Free jazz
- First truck tool
- Intel collector
- Spread of cultural ideas, e.g.
- "A chance!"
- Singer-songwriter
- Amazon's arrow smile, e.g.



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Daily Word Game

KIELBASA (keel-BAH-suh): A smoked sausage of Polish origin.

Find: 37 words in KIELBASA.

Average: 30 words. Time: 40 minutes.

Rules: 1. Words must be four or more letters. 2. No four-letter plural words such as "bats" or "dies". 3. Use only one form of a verb. For example, either "pose" or "posed". 4. No proper nouns or slang words.

DOONESBURY

BY GARRY TRUDEAU



BROOM HILDA

BY RUSSELL MYERS



CITY OF KISSIMMEE NOTICE OF PUBLIC HEARING VOLUNTARY ANNEXATION

The City Commission will meet on Tuesday, November 7, 2023 at 8:00 p.m., in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida, to hear the Second and Final Reading of the proposed voluntary annexation and vote upon its passage. The proposed annexation ordinance and a complete legal description by metes and bounds may be obtained by contacting the Office of the City Clerk, City Hall.

Any interested party wanting to be heard on this issue may submit testimony to be read into the official record to CityClerk@kissimmee.gov prior to the start of the meeting or may be heard by participating in person. Any questions regarding this public hearing may be directed to the Development Services Department at (407) 516-2140 or at planning@kissimmee.gov.

PROPOSED ORDINANCE #23-08 AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION.

The city is requesting annexation as follows:

The subject property is vacated ROW located at Hilliard Isle Rd. & Simpson Rd.
Portion of Parcel ID: 08-25-30-0000-0085-000008

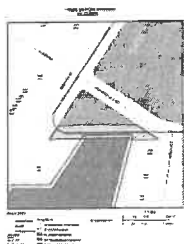
Legal Description:

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of the Northeast 114 of the Southwest 114 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 00°13'31" West, along the East line of the Northeast 114 of said Section 8, for a distance of 43.89 feet to a point on the South right of way line of Hilliard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 69°17'45" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 81°17'43" West, along said South right of way line, for a distance of 188.08 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a distance of 9.82 feet; thence run South 89°44'51" West for a distance of 76.84 feet; thence run South 87°58'43" West for a distance of 141.43 feet; thence run South 85°00'54" West for a distance of 67.54 feet; thence run South 82°16'44" West for a distance of 38.05 feet; thence run South 77°18'48" West for a distance of 67.56 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeast right of way line of Boggy Creek Road; thence departing said South right of way line, run North 33°50'27" East, along the said Southeast right of way line of Boggy Creek Road, for a distance of 167.77 feet to a point on the North right of way line of said Hilliard Isle Road, said point being a point on a curve, concave Northeast, having a radius of 24.01 feet, a chord bearing of South 51°05'18" East and a chord distance of 33.10 feet; thence run Southeast along the arc of said curve through a central angle of 87°07'13" for an arc distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 67°21'58" East for a distance of 78.16 feet; thence run South 80°36'49" East for a distance of 186.47 feet; thence run South 60°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 50°08'33" East for a distance of 39.57 feet to the point of curvature of a curve, concave Northeast, having a radius of 290.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.34 feet; thence run Southeast along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.50 feet to the POINT OF BEGINNING.

Reference # AX-23-0001
Hilliard Isle ROW

CITY COMMISSION
KISSIMMEE, FLORIDA



In accordance with Florida Statutes 286.91(3) 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 report 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 Statutes 286.28, persons needing assistance to participate in any of these proceedings should contact the Office of the City Clerk (407) 516-2308 prior to the meeting. (FS286.28)

LOOSE PARTS

BY DAVE BLAZEK



Ticked off! @too much sugar

Too many people are Grinch-like, and when they see a poor person doing something nice for themselves, they think they should live a life of misery. The one star or one hair extension may be bringing joy to their life.

I am ticked off at the local channel that let go of the best, most interesting meteorologist in Central Florida! I used to watch him daily at Noon and he was always upbeat, professional, and well-dressed! Some days he would even say or do something to make me laugh! I always enjoyed his forecasts! Meanwhile, this same channel keeps the sports anchor that has the personality of a potato and is so morbidly obese that he cannot even buy a suit jacket! He is disgusting to watch while I am eating my dinner!

I am ticked off that I cannot purchase muffins

without icing, glaze or a sugar topping! If I wanted icing, I would purchase a cupcake! Why can't bakeries make some with and some without for people who want a sweet treat but not the extra sugar! No wonder so many Americans are suffering from diabetes! Too much of a good thing is not so good!

So a large Volusia County Hospital and Medical Building don't have adequate parking spaces for patients and nothing is being done to remedy this parking lot nightmare. Last week I arrived 20 minutes early for my 10:15 a.m. doctor appointment but spent most of that time desperately searching for a parking space. Finally, I had to park in the staff parking lot, located way North of the medical building and I walked about 4 miles to

reach it. When I returned to my car there were only two spaces open in that lot. It's time to stop building new urgent care facilities and start building a parking garage at your large existing medical facilities.

The flip side

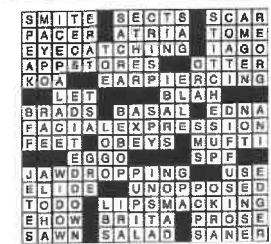
Thank you to the gentleman who paid for my espresso at the East End Market, "just because!" The world needs more people like you, sir!

Need to vent?

Write to tickedoff@orlando sentinel.com or flipside@orlando sentinel.com. Stay Ticked Off! at OrlandoSentinel.com/tickedoff.

Jumble

Jumbled words: exert, brash, growth, tip-top



Answer: Proving that heavier-than-air aircraft could fly just took the "RIGHT" BROTHERS

3	2	7	8	1	9	4	5	6
5	4	1	3	2	6	7	9	8
8	9	6	7	5	4	1	3	2
9	7	4	1	6	3	2	8	5
1	3	8	2	7	5	9	8	4
6	5	2	4	9	8	3	1	7
2	8	9	5	4	1	8	7	3
7	1	3	8	2	5	4	9	6
4	8	6	9	3	7	8	2	1

ITEM 4.B

Public Hearing – Final Reading - Proposed Ordinance #23-09 - Ordinance amending the Future Land Use Map designation from County Vacated Right-of-Way (ROW) to City Commercial General (CG): Hilliard Isle ROW Vacation, LUPA-23-0002

AN ORDINANCE AMENDING ORDINANCE NO. 3050 KNOWN AS THE ORDINANCE ADOPTING THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF KISSIMMEE, FLORIDA, UNDER THE AUTHORITY OF FLORIDA STATUTE 163.3184; DIRECTING THE CITY MANAGER TO AMEND THE COMPREHENSIVE LAND USE PLAN AS HEREIN PROVIDED AFTER THE PASSAGE OF THIS ORDINANCE; PROVIDING FOR A PUBLIC HEARING AS REQUIRED BY LAW; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE

Request

Approval of a Land Use Plan Amendment changing the Future Land Use Map designation from County Vacated Right-of-Way to City Commercial Commercial (CG) on approximately 0.79 acres of land.

Explanation

The subject parcel was annexed to the City of Kissimmee in 2000 with a Future Land Use Map designation of Commercial General (CG). On April 1, 2008, a Final Plat was approved by the City of Kissimmee which resulted in the realignment of Hilliard Isle Road connecting to Simpson Road. The existing portion of Hilliard Isle south of the realignment was closed and no longer used as a road. On November 9, 2015, the property owner initiated a Vacation of Right-of-Way (ROW) for the existing portion with the County to offset the loss in property that was provided with the dedication of the new road alignment, which was approved by Osceola County.

Even though the Vacation of the ROW application was approved, this portion of land (0.47 acres) remained in Osceola County jurisdiction. The applicant wishes to use the same Land Use designation of Commercial General (CG) in order to develop the entire property as a unified commercial development.

FINDINGS AND REASONS:

1. Compliance with Policy 1.2.3.2, Commercial General (CG): Future Land Use Designation, that is intended to accommodate office uses, general retail sales, and service uses that are highly accessible and adjacent to major thoroughfares and transit facilities and possess necessary location, site, and market requirements.
2. Compliance with Land Development Code Section 14-3-26, Comprehensive Plan Text and Map Amendments, in regards to the submittal and review procedures and criteria to support an amendment.

Recommendation

REQUESTED PLANNING ADVISORY BOARD ACTION:

Approve w/Conditions

The Development Review Committee (DRC) recommended approval on May 2, 2023.

City of Kissimmee

The Planning Advisory Board (PAB) recommended approval by a vote of 4-0 on June 7, 2023.

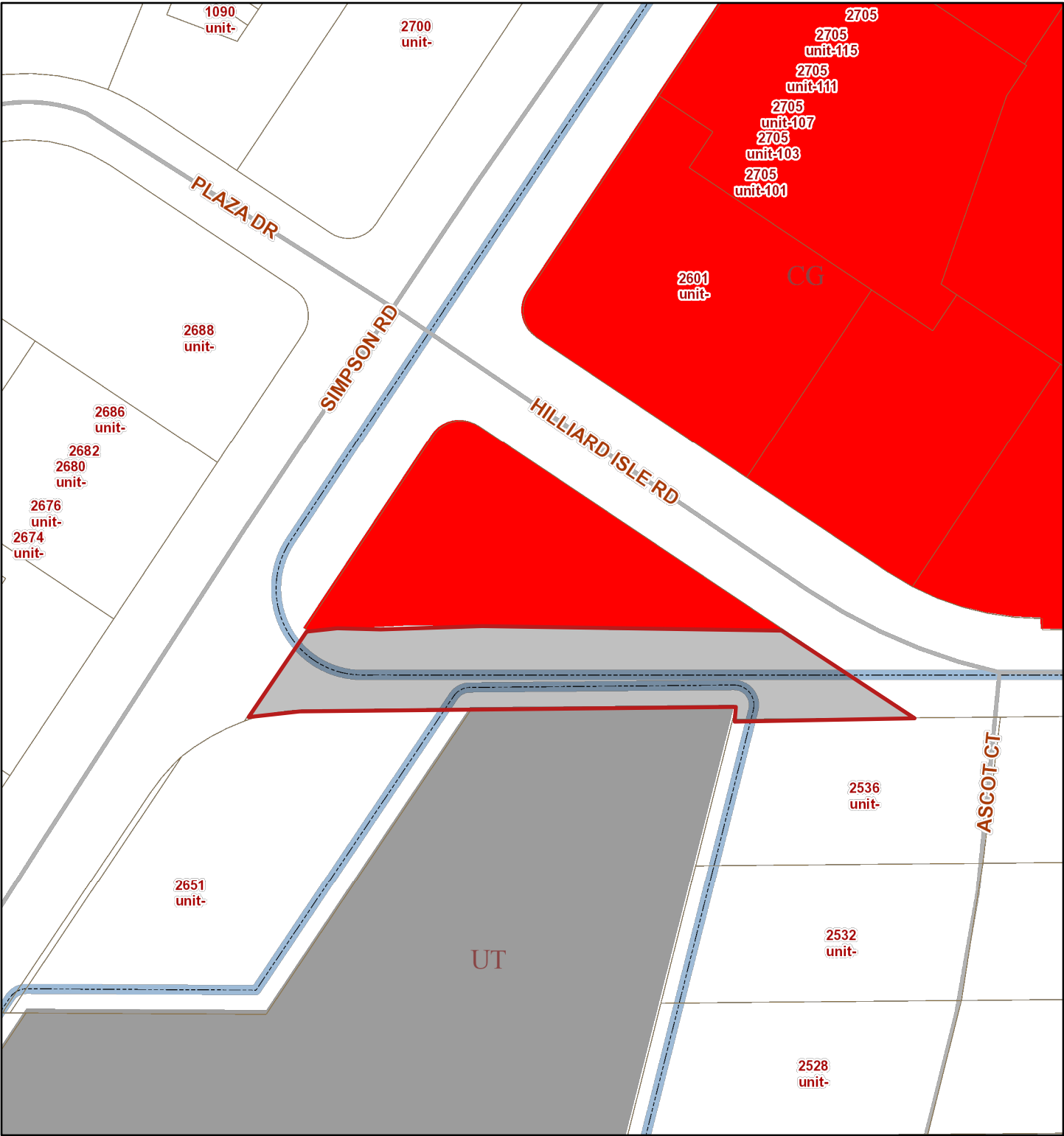
CONDITION:

1. Subject to the approval of the Hilliard Isle ROW Annexation (AX-23-0001).

Attachment(s):

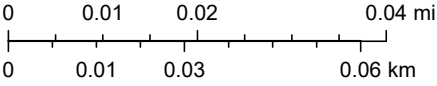
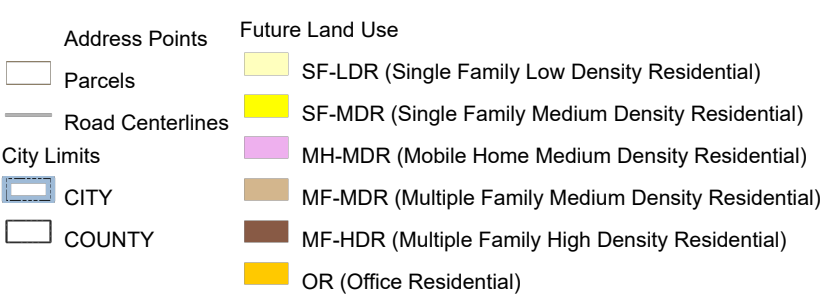
1. LUPA-23-0002 Vicinity Map
2. LUPA-23-0002 Aerial Map
3. LUPA-23-0002 Site Data Tables
4. (S)LUPA-23-0002 Proposed Ord 23-09
5. LUPA-23-0002 City Commission Ad
6. LUPA-23-0002 June 7, 2023 PAB Minutes
7. LUPA-23-0002 DRC Comments
8. LUPA-23-0002 DRC Application
9. LUPA-23-0002 Affidavit of Publication (Orlando Sentinel)

Hilliard Isle ROW Land Use Amendment LUPA-23-0002

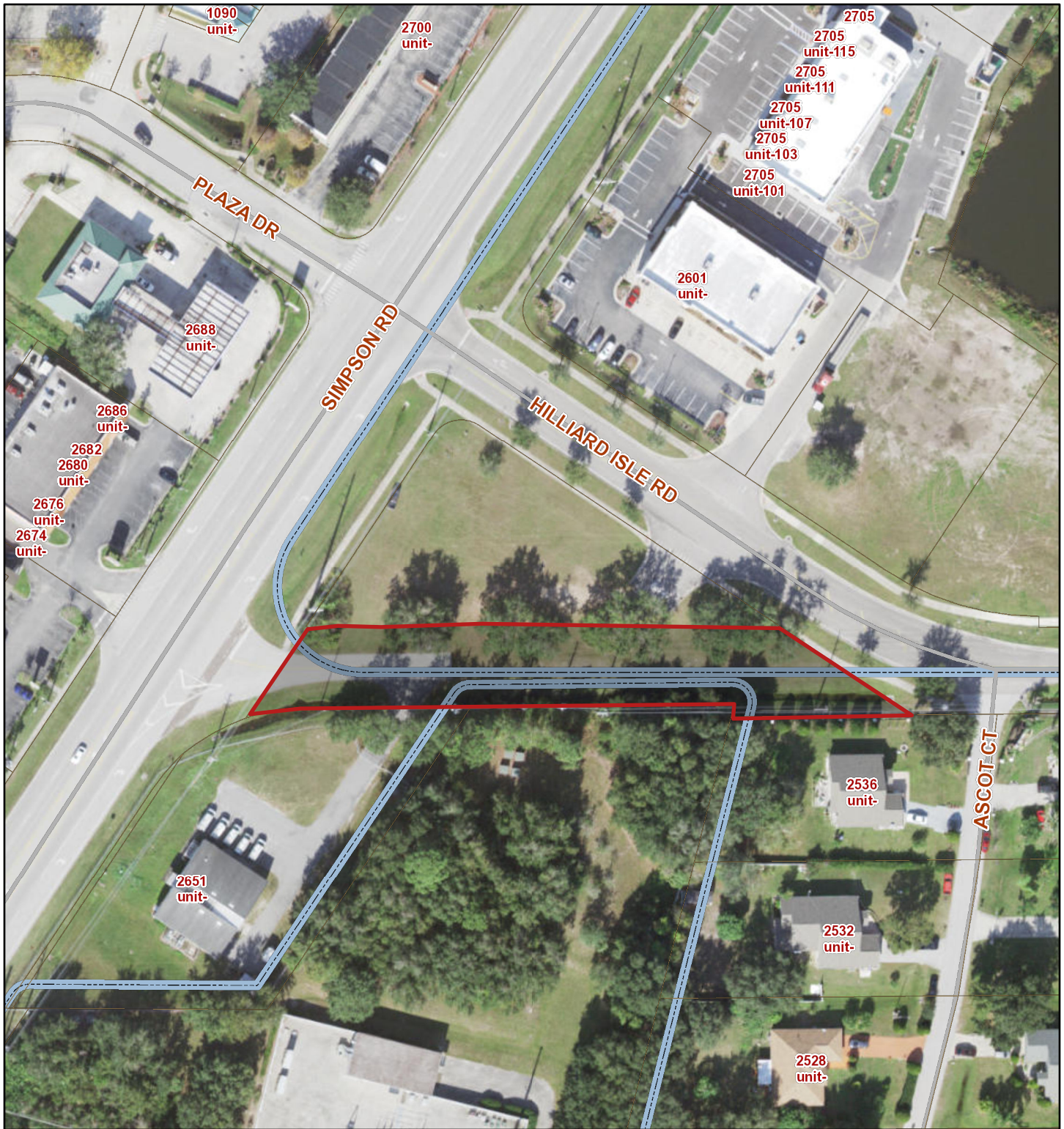


May 9, 2023

1:1,462



Hilliard Isle ROW Land Use Amendment LUPA-23-0002

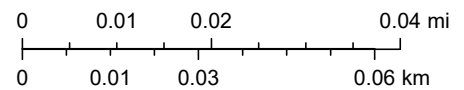


May 9, 2023

1:1,462

- Address Points
- Parcels
- Road Centerlines
- City Limits
- CITY
- COUNTY

- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 30cm Resolution Metadata



State of Florida, Maxar

Hilliard Isle ROW Land Use Amendment, LUPA-23-0002
Portion of Parcel ID# 08-25-30-1534-0001-0010
East of Simpson Road and North of Hilliard Isle Road.
Site Data Tables

Site Data	
Size	0.79 acres
Future Land Use Designation	N/A (Vacated Right Of Way)(ROW) – County
Proposed Future Land Use Designation	Commercial General (CG) – City
Zoning District Designation	N/A (Vacated ROW) – County
Proposed Zoning District Designation	Neighborhood Commercial District (B-2) - City
Existing Overlay District	N/A
Existing Use(s)	Vacated ROW
Proposed Use(s)	Commercial
Adjacent Land Use	
North	Commercial General (CG) – City
South	Utilities (UT) - City, Commercial - County, & Low Density Residential (LDR) – County
East	N/A Hilliard Isle Road - County
West	N/A Simpson Road - County
Adjacent Zoning	
North	Neighborhood Commercial District (B-2) - City
South	General Commercial (B-3) – City, Estate (E-1) – County, & Residential (RS-1A) – County
East	N/A Hilliard Isle Road - County
West	N/A Simpson Road - County
Zoning History	N/A - This portion of this parcel is currently within County jurisdiction.
Past/Current Project Tracking	00-0036 Annexation 00-0037 Land Use Amend. (CG County to CG City) 00-0038 Rezoning (CR- County to B-2 City) AX-23-0001 Annexation (<i>Pending</i>) ZMA-23-0003 Zoning Map Amendment (<i>Pending</i>)

Comprehensive Plan Summary
Policy 1.2.3.2, Commercial General (CG): The Commercial General land use designation is intended to include the hub of retail sales and services within the downtown business district as well as highly accessible areas adjacent to major thoroughfares and transit facilities, that possess necessary location, site, and market requirements. This future land use designation shall be implemented through the City's Land Development Code. This area is not intended to accommodate manufacturing, processing, or assembly of goods, sales and service of heavy commercial vehicle and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities which may generate nuisance impacts, including glare, smoke or other air pollutants, noise, vibration or major fire hazards.

Development and redevelopment projects within this future land use designation may be built with an intensity of up to 2.5 FAR.

Potential Zoning Districts	Agriculture and Conservation District (AC)
	Neighborhood Commercial District (B-2)
	General Commercial District (B-3)
	Highway Commercial District (HC)
	Office Commercial District (B-5)

Zoning District Standards District Summary

Land Development Code Section 14-4-4(I), Neighborhood Commercial (B-2) Intent: 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.

Comprehensive Plan Future Land Use & Zoning Comparisons

	<i>Existing Future Land Use & Zoning</i>	<i>Requested Future Land Use & Zoning</i>
Uses	N/A Vacated ROW	Commercial General (CG) – City 2.5 Max. Floor Area Ratio (FAR) Future Land Use
	N/A Vacated ROW	Neighborhood Commercial (B-2) - City Zoning
	Vacated ROW	Commercial

Public Facilities Analysis

Transportation	
Adjacent street	Simpson Road, Hilliard Isle Road
Street Quality of Service (QOS)	Adjacent Streets are under Osceola County jurisdiction.
Sanitary Sewer	
Is volume less than 98% capacity?	N/A – Compliance
Potable Water	
Is volume less than 98% capacity?	N/A – Compliance
Is water pressure at least 40lbs per square inch?	N/A – Compliance
Solid Waste	
Is volume less than 5.1lbs per person per calendar day?	N/A – Compliance

Recreation	
Is active recreation area at least 2 acres per 1,000 population?	N/A – Compliance
Is urban open space area at least 2 acres per 1,000 population?	N/A – Compliance
Is total recreation area at least 4 acres per 1,000 population?	N/A – Compliance
Drainage	
Is off-site discharge; runoff velocities; roadway drainage; pavement; retention; and flood storage LOS standards met?	N/A- Compliance

PROPOSED ORDINANCE NO. 23-09
ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 3050 KNOWN AS THE ORDINANCE ADOPTING THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF KISSIMMEE, FLORIDA, UNDER THE AUTHORITY OF FLORIDA STATUTE 163.3184; DIRECTING THE CITY MANAGER TO AMEND THE COMPREHENSIVE LAND USE PLAN AS HEREIN PROVIDED AFTER THE PASSAGE OF THIS ORDINANCE; PROVIDING FOR A PUBLIC HEARING AS REQUIRED BY LAW; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kissimmee, Florida, has adopted Ordinance No. 3050 pursuant to the Local Government Comprehensive Planning Act of 1975, as amended, and

WHEREAS, the City of Kissimmee has advertised as required by law for two (2) public hearings prior to adoption of this ordinance, and

WHEREAS, the City has held such public hearings and the records of the City provide that the owners of the land affected have been notified as required by law;

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA, IN LAWFUL SESSION, ASSEMBLED, AS FOLLOWS:

SECTION 1. Amend the Land Use Plan as to the following area:

FROM: Vacated Right-of-Way (ROW) - County

TO: CG (Commercial General) – City

The subject property is vacated ROW located at Hilliard Isle Rd. & Simpson Rd. **Portion of Parcel ID: 08-25-30-0000-0085-0000**

Legal Description:

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of the Northeast 1/4 of the Southwest 1/4 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 00°13'31" West, along the East line of the Northeast 1/4 of the Southeast 1/4 of said Section 8, for a distance of 43.99 feet to a point on the South right of way line of Hilliard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 89°17' 43" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 8°17' 43" West, along said South right of way line, for a distance of 188.08 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a

distance of 9.62 feet; thence run South 89°44'59" West for a distance of 76.84 feet; thence run South 87°58' 45" West for a distance of 141.43 feet; thence run South 85°00'54" West for a distance of 67.54 feet; thence run South 82°16' 44" West for a distance of 38.05 feet; thence run South 77°16' 48" West for a distance of 67.66 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeasterly right of way line of Boggy Creek Road; thence departing said South right of way line, run North 33°50'27" East, along the said Southeasterly right of way line of Boggy Creek Road, for a distance of 167.77 feet to a point on the North right of way line of said Hilliard Isle Road, said point being a point on a curve, concave Northeasterly, having a radius of 24.01 feet, a chord bearing of South 31°05'18" East and a chord distance of 33.10 feet; thence run Southeasterly along the arc of said curve through a central angle of 87°07'13" for an arc distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 87°21 '58" East for a distance of 78.16 feet; thence run South 88°36' 49" East for a distance of 166.47 feet; thence run South 89°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 56°09'33" East for a distance of 39.97 feet to the point of curvature of a curve, concave Northeasterly, having a radius of 290.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.94 feet; thence run Southeasterly along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.90 feet to the POINT OF BEGINNING.

Containing 37,474 square feet, or 0.79 acres, more or less.

A map of the area is included with this ordinance.

SECTION 2. That a copy of said Land Use Plan Amendment is filed in the office of the Development Services Department of the City of Kissimmee as a matter of permanent record of the City, and that matters and contents therein are made a part of this ordinance by reference as fully and completely as if set forth herein, and such copy shall remain on file in said office, available for public inspection.

SECTION 3. That the City Manager, after passage of this Ordinance, is hereby directed to indicate the changes adopted in this Ordinance and to reflect the same on the Comprehensive Land Use Plan Map of the City of Kissimmee.

SECTION 4. That all ordinances in conflict herewith are hereby repealed.

SECTION 5. This ordinance shall take effect 10 days after its passage.

BE IT ORDAINED, by the City Commission of the City of Kissimmee, this 7th day of November, 2023.

Mayor - Commissioner

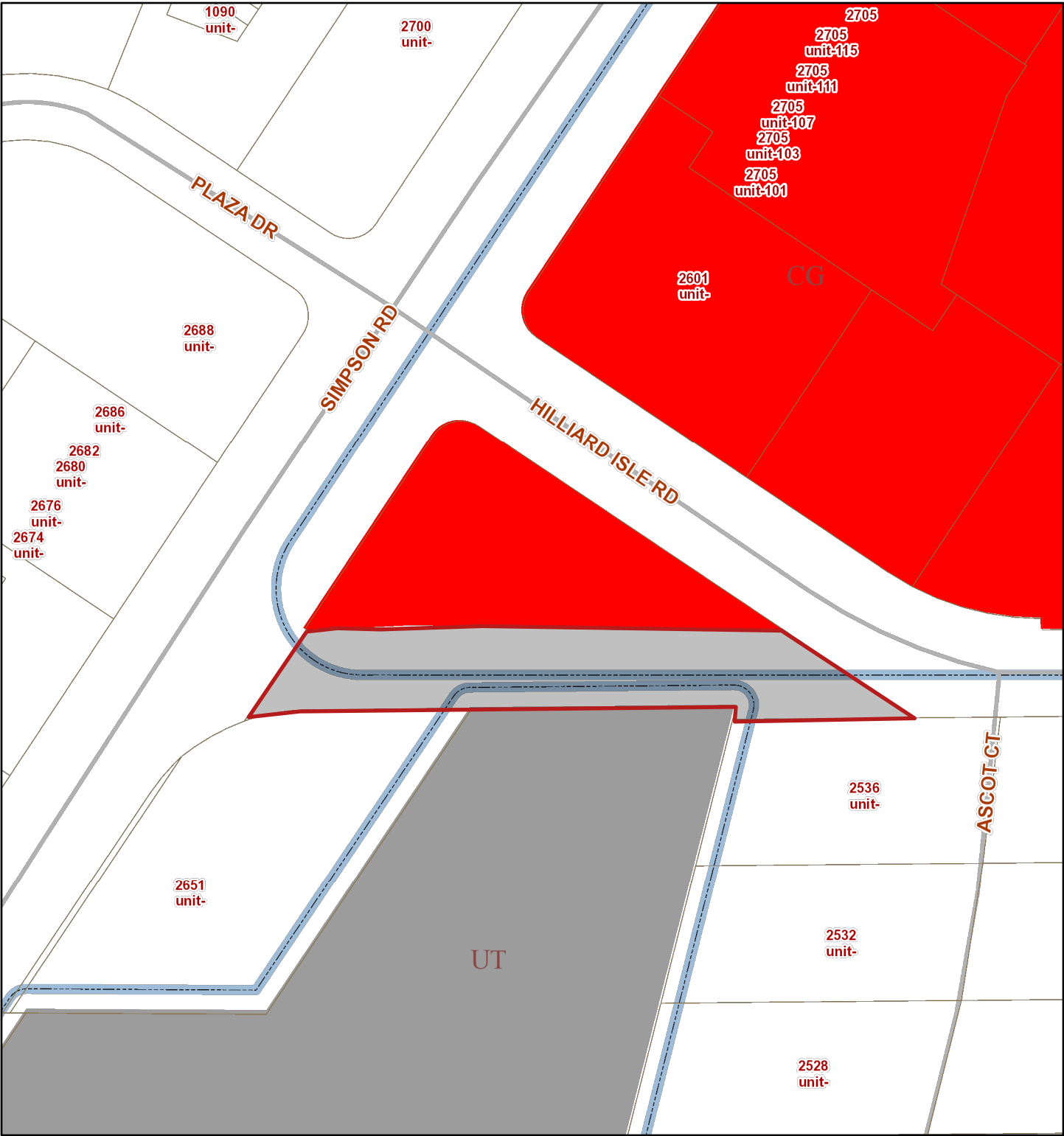
ATTEST:

City Clerk

Approved as to form and legality:

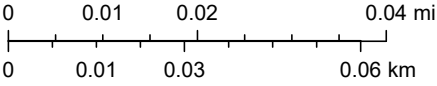
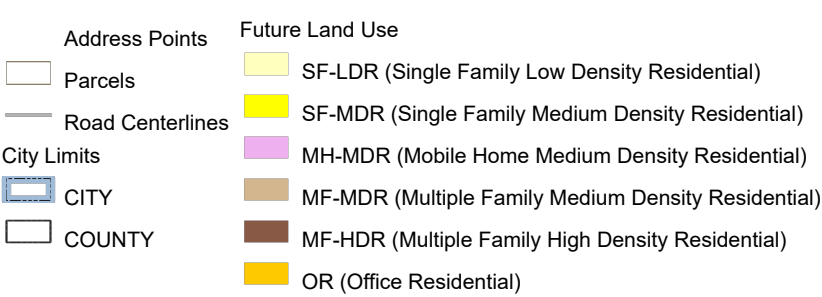
City Attorney

Hilliard Isle ROW Land Use Amendment LUPA-23-0002



May 9, 2023

1:1,462



**CITY OF KISSIMMEE
NOTICE OF PUBLIC HEARING
NOTICE OF LAND USE CHANGE**

The City of Kissimmee proposes to adopt the following ordinance that would change the use of land as described below. A public hearing on this proposal will be held by the City of Kissimmee City Commission to consider the second and final reading of the proposed ordinance on **Tuesday, November 7, 2023** at 6:00 p.m. or as soon thereafter as possible, in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida.

PROPOSED ORDINANCE **#23-09**: AN ORDINANCE AMENDING ORDINANCE NO. 3050 KNOWN AS THE ORDINANCE ADOPTING THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF KISSIMMEE, FLORIDA UNDER THE AUTHORITY OF FLORIDA STATUTE 163.3184; DIRECTING THE CITY MANAGER TO AMEND THE COMPREHENSIVE LAND USE PLAN AS HEREIN PROVIDED AFTER THE PASSAGE OF THIS ORDINANCE; PROVIDING FOR A PUBLIC HEARING AS REQUIRED BY LAW; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

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TO: Commercial General (CG) – City

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Portion of Parcel ID: 08-25-30-0000-0085-00000

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Containing 37,474 square feet, or 0.79 acres, more or less.

The purpose of this public hearing is to consider a proposed amendment to Ordinance 3050, known as the Comprehensive Development Plan, which would change The 2025 Future Land Use Map of the Kissimmee Comprehensive Plan.

The proposed amendment and the supporting documents, including a parcel description, may be inspected in the Development Services Department, City Hall, 101 Church Street, Kissimmee, Florida, between 8:00 a.m. and 5:00 p.m., Monday through Friday. Please direct any questions to the Development Services Department, (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 23-0002
HILLIARD ISLE ROW

CITY COMMISSION
KISSIMMEE, FLORIDA

In accordance with Florida Statutes 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.

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)



MEETING MINUTES
SESSION OF THE PLANNING ADVISORY BOARD
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
WEDNESDAY, JUNE 7, 2023 AT 6:00 PM

1. **MEETING CALLED TO ORDER Members Present:** Board Member Robert Bussiere, Board Member Robert Spalding, Board Member Melissa Thacker, Board Member Sylvette Santos
Staff Present: Deputy City Attorney Kalanit Oded, Senior Planner Cristian Arias, Planning Manager Brenda Ryan, Planning Technician Yolanda Hazley
Members Absent: Board Member Diana Marrero-Pinto, Board Member Fatima Santiago

Chairman Bussiere called the meeting to order at 06:01 PM.

2. **MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE** After a Moment of Silence, Chairman Bussiere led the audience in the Pledge of Allegiance.

3. **MINUTES**

- 3.A Approval of the May 17, 2023 Planning Advisory Board (PAB) Meeting Minutes.
Board Member Spalding made a motion to Approve. Board Member Thacker seconded the motion.

AYE: Board Member Bussiere, Board Member Santos
NAY: None

Motion to Approve Passed 4 - 0.

4. **OLD BUSINESS**

5. **NEW BUSINESS**

- 5.A Public Hearing - Ordinance to annex 0.79 acres of land - AX-23-0001 - Proposed Ordinance #23-08

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND, TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Senior Planner Arias stated that this is a request for an Annexation to annex 0.79 acres of land. The subject property is located at the SE corner of Simpson Rd. and Hilliard Isle.

Staff recommends approval for the following reasons:

1. Compliance with Chapter 171 of the Florida Statutes as it meets all the criteria for voluntary annexation as the property is contiguous, or adjacent, to the City Limits along the northern and southern boundaries of the parcel. Public services, including water, sewer, drainage, and emergency services are already provided to these adjacent City parcels. The subject property is reasonably compact and will not result in the creation of an enclave if annexed.
2. Compliance with Section 14-3-25 annexation regulations outlined in the Land Development Code that refers to Chapter 171, Florida Statutes, and the general

annexation procedures in the City's Comprehensive Plan utilizing either the City's land use conversion table in Future Land Use Policy 1.1.10.5, an Annexation Agreement, or a Future Land Use Map amendment. A concurrent Future Land Use Amendment (LUPA-23-0002) will be utilized to establish the Future Land Use designation on this property.

Jeremy Anderson, 4016 Edgewater Dr. Orlando, FL representing the applicant was available for any questions.

Board Member Spalding made a motion to Approve. Board Member Thacker seconded the motion.

AYE: Board Member Bussiere, Board Member Santos
NAY: None

Motion to Approve Passed 4 - 0.

5.B Public Hearing – An Ordinance amending the Future Land Use Map designation from County Vacated Right-of-Way (ROW) to City Commercial General (CG): Hilliard Isle ROW Vacation, LUPA-23-0002 - Proposed Ordinance #23-09

AN ORDINANCE AMENDING ORDINANCE NO. 3050 KNOWN AS THE ORDINANCE ADOPTING THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF KISSIMMEE, FLORIDA, UNDER THE AUTHORITY OF FLORIDA STATUTE 163.3184; DIRECTING THE CITY MANAGER TO AMEND THE COMPREHENSIVE LAND USE PLAN AS HEREIN PROVIDED AFTER THE PASSAGE OF THIS ORDINANCE; PROVIDING FOR A PUBLIC HEARING AS REQUIRED BY LAW; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

Senior Planner Arias stated that this is a request for a Land Use Plan Amendment to the Future Land Use Map designation from Vacated Right-of-Way (County) to CG- (Commercial General) - City on approximately 0.79 acres of land.

Staff recommends approval for the following reasons:

1. Compliance with Policy 1.2.3.2, Commercial General (CG): Future Land Use Designation, that is intended to accommodate office uses, general retail sales, and service uses that are highly accessible and adjacent to major thoroughfares and transit facilities and possess necessary location, site, and market requirements.
2. Compliance with Land Development Code Section 14-3-26, Comprehensive Plan Text and Map Amendments, in regards to the submittal and review procedures and criteria to support an amendment.

Staff recommends approval subject to the following 1 condition:

1. Subject to the approval of the Hilliard Isle ROW Annexation (AX-23-0001).

Board Member Spalding made a motion to Approve subject to 1 condition. Board Member Thacker seconded the motion.

1. Subject to the approval of the Hilliard Isle ROW Annexation (AX-23-0001).

AYE: Board Member Bussiere, Board Member Santos
NAY: None

Motion to Approve w/Conditions Passed 4 - 0.

- 5.C Public Hearing - An Ordinance amending the Zoning Map designation from County Vacated Right-of-Way to City Neighborhood Commercial (B-2): Hilliard Isle ROW, ZMA-23-0003 - Proposed Ordinance #23-10

AN ORDINANCE AMENDING ORDINANCE NO. 3068 KNOWN AS THE CITY OF KISSIMMEE LAND DEVELOPMENT CODE, REZONING THE PROPERTY HEREINAFTER DESCRIBED, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

Senior Planner Arias stated that this is a request for approval of a Zoning Map Amendment to change the zoning from Vacated Right-of-Way (County) to B-2 (Neighborhood Commercial) City on approximately 0.79 acres of land.

Staff recommends approval for the following reasons:

1. Compliance with the intent of the Neighborhood Commercial (B-2) zoning district as outlined in Section 14-4-4(I) of the Land Development Code.
2. Compliance with the allowable uses as outlined in Section 14-4-5, Table 4-2, is consistent and compatible with the surrounding area.
3. Compliance with Land Development Code Section 14-3-27, Zoning map and Land Development Code (LDC) amendments, in regards to the submittal and review procedures and criteria to support an amendment.
4. Compliance with Comprehensive Plan Future Land Use Policy 1.2.3.2, Commercial General, in that this designation is compatible with the Neighborhood Commercial (B-2) Zoning designation.

Staff recommends approval subject to the following 1 condition:

1. Subject to the approval of the associated Hilliard Isle ROW Annexation (AX-23-0001) and Land Use Plan Amendment (LUPA-23-0002).

Board Member Thacker made a motion to Approve with 1 Condition. Board Member Spalding seconded the motion.

- 1. Subject to the approval of the associated Hilliard Isle ROW Annexation (AX-23-0001) and Land Use Plan Amendment (LUPA-23-0002).**

AYE: Board Member Bussiere, Board Member Santos
NAY: None

Motion to Approve w/Conditions Passed 4 - 0.

6. PUBLIC HEARINGS

7. DISCUSSION

8. HEAR CHAIRMAN AND BOARD MEMBERS

9. **ADJOURNMENT** Board Member Spalding made a motion to Adjourn. Board Member Thacker seconded the motion.

AYE: Board Member Bussiere, Board Member Santos
NAY: None

Motion to Adjourn Passed 4 - 0.

There being no further business to come before the Planning Advisory Board, Chairman Bussiere adjourned the meeting at 06:21 PM.



Board Chairman

ATTEST:



Board Secretary



DEVELOPMENT SERVICES DEPARTMENT

PLANNING DIVISION

101 CHURCH STREET - KISSIMMEE, FLORIDA 34741 - 407.518.2140

DEVELOPMENT PROJECT COMMENT FORM

THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGОВ & BLUEBEAM

ADDRESS: 08-25-30-1534-0001-0010
PLAN (DRC) NUMBER: LUPA-23-0002

DATE: 4/12/2023

Review Status:
APPROVED WITH CONDITIONS.

PLANNING DIVISION - Cristian I. Arias - 407-518-2373 Cristian.Arias@kissimmee.gov

This application was initiated by the applicant to designate the Future Land Use (FLU) from County Vacated ROW to City of Kissimmee Commercial General, is subject to Planning and Advisory and City Commission review and approval.

This application is part of Annexation SP-23-0001.

GENERAL (if applicable to project)

1. Signage must be reviewed and approved under a separate building permit; not part of this approval.
2. Any Mobility and Impact fees will be due at the time of permit issuance. To find out more information please contact Juan F. Hernandez at 407-518-2233 for Mobility fees and Toho Water Authority at 407-944-5000 for water/sewer impact fees.

If you have any questions regarding the comments/conditions above, please use the contact information provided.

Please login to the Citizen Self Service portal at www.kissimmee.gov.energov to upload a response to comments.

Additional comments may be forth coming as a result of revisions to the plans, any new changes in the information provided, future plan review up to plan approval and permitting and/or with submittal of supporting documentation. When submitting, please provide a response to comments outlining where and how the comments have been addressed.



Katrina S. Scarborough, CFA, CCF, MCF
Osceola County Property Appraiser
www.property-appraiser.org
Osceola County Government Center
2505 East Irla Bronson Memorial Hwy, Kissimmee, FL 34744
Ph: (407) 742-5000 Fax: (407) 742-4900

Parcel: 08-25-30-1534-0001-0010



Owner Information

Owner Name NADINA CAPITAL GROUP LLC

Mailing Address 1000 COLOUR PL
APOPKA, FL 32703

Physical Address HILLIARD ISLE RD, KISSIMMEE FL 34744

Description VACANT COMMERCIAL

Tax District 200 - KISSIMMEE

Tax Values

Current Values

Current Value represents working appraised values as of 02/22/2023, which are subject to change prior to certification

Land	\$793,500
AG Benefit	\$0
Extra Features	\$0
Buildings	\$0
Appraised(just)	\$793,500
Assessed(estimated)	\$382,173
Exemption(estimated)	\$0
Taxable(estimated)	\$382,173

* Assessed Values Reflect Adjustments for Agricultural Classification and/or the Save Our Homes Cap

Certified Values

Certified Value represents certified values that appeared on the tax roll as of 10/05/2022

Land	\$793,500
AG Benefit	\$0
Extra Features	\$0
Buildings	\$0
Appraised(just)	\$793,500
Assessed*	\$347,430
Exemption	\$0
Taxable	\$347,430

* Assessed Values Reflect Adjustments for Agricultural Classification and/or the Save Our Homes Cap

Sales Information

Seq	ORB-Pg	Price	Date	Deed Type
0	4254-2883	\$400,000	2012-03-29	SW
1	4211-2209	\$100	2011-12-15	CT

Land Information - Total Acreage: 1.30

Land Description	Units	Depth	Land Type	Land Value
COMMERCIAL SF	60112.80	0.00	SF	\$793,500

Legal Description

Legal Description	HILLIARD ISLE COMMERCIAL CENTER PB 21 PG 45 LOT 1 AND THAT PORTION OF VAC HILLIARD ISLE RD ABUTTING S SIDE
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Orlando Sentinel

MEDIA GROUP

Published Daily
ORANGE County, Florida

Sold To:

City of Kissimmee Planning Services - CU80085212
101 Church St, Ste 110
Kissimmee, FL, 34741

Bill To:

City of Kissimmee Planning Services - CU80085212
101 Church St, Ste 110
Kissimmee, FL, 34741

**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 26, 2023.

Affiant further says that the newspaper complies with all legal requirements
for publication in Chapter 50, Florida Statutes.



Rose Williams

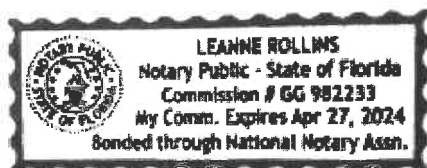
Signature of Affiant

Name of Affiant

Sworn to and subscribed before me on this 26 day of October, 2023,
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

7512623

Comedy Lab to stay put through February

By Matthew J. Palm
Orlando Sentinel

SAK Comedy Lab will be able to continue performing in its Orange Avenue theater through February after reaching a deal that allows the organization to remain there until its new space is ready for a March 1 grand opening.

The improv-comedy company on Tuesday afternoon announced it had been able to negotiate a lease extension at its current location, 29 S. Orange Ave. That building is being renovated as a future home for the Parliament House nightclub, although the last public update on construction progress from Parliament House — the storied gay resort formerly located on Orange Blossom Trail — was made more than a year ago.

SAK's lease was set to expire in November, well before its future home could be turned into a theater. That location is right around the corner, less than a quarter-mile away, in the 55 West



SAK Comedy Lab plans to move to this corner of the Church Street Market, above the Artisan's Table restaurant, YANLEY AGUILAR/ORLANDO FRINGE

complex on Church Street. The second-floor theater will face Orlando Fringe's Artspace. The preliminary work to renovate the new space is in progress, SAK executive director Chris Dinger said in a message to the Orlando Sentinel.

"We have received permits back to begin construction and are well under way with Adirondack Studios in designing a really cool, refreshed SAK experience,"

he wrote. Previously, the company had anticipated it might have to temporarily go dark during a transition from the old space to the new, but the lease extension means "no down time," Dinger said.

The move to 55 West will increase parking options for patrons and provide a less rowdy atmosphere than the main drag of Orange Avenue, Dinger had previously told the Sentinel.

"We believe the minimal distance will make a world of difference in the accessibility and a brand new start for our beloved brand," he reiterated to SAK fans on Wednesday in an electronic newsletter.

The relocation is estimated to cost about \$1 million, but Dinger said SAK had been saving for years in anticipation of an eventual move.

Founded in 1991, SAK not only presents a variety of public improv shows but also teaches classes in the art form and entertains at corporate and other special events. Its most famous alumnus is Wayne Brady, who hosts CBS' "Let's Make a Deal" game show.

For more information, go to sakcomedylab.com.

Follow me at Facebook: [matthewj.palm](https://www.facebook.com/matthewj.palm) or email me at mpalm@orlandosentinel.com. Find more news and reviews at orlandosentinel.com/arts, and go to orlandosentinel.com/theater for theater news and reviews.

Film festival will have more than 250 films

By Patrick Connolly
Orlando Sentinel

An annual celebration of cinema returns to downtown Orlando for its 18th year, drawing filmmakers from around the country and world for a week of festivities.

The Orlando Film Festival is showing a total of 257 feature-length films, documentaries and shorts at the CMX Cinema Plaza Café 12 in downtown Orlando. With single-day and 7-day passes available, Central Floridians can explore the range of cinematic offerings Oct. 26-Nov. 2.

"Orlando Film Festival is a film festival for filmmakers by filmmakers. Every single person on my staff is a filmmaker," said Daniel Springer, a 20-year veteran of the film industry and the

festival's executive director who personally watches every film submitted.

The opening night film, "Art Thief," premieres at 8 p.m. Oct. 26 and is a fictionalized account of the 1990 robbery of the Isabella Stewart Gardner Museum in Boston. Other feature-length films tell stories centered on action, grief, identity, mental health and more.

The festival also shows a swath of documentary films on topics from cannibal cultivation, African-American music, picky eaters and how the military plays a role in Hollywood. "Downwind" is a feature-length documentary examining how nuclear testing in Nevada impacted Native American communities.

This year's event draws films from around the world, including Japan, China, Australia, France, Ireland, Switzerland, Macedonia and Costa Rica. Throughout the week-long festival, an estimated 12,000 attendees will see screenings of films that are all vying for 40 different awards.

"We'll give out awards for everything if it's deserving," Springer said. "We're going to give our filmmakers in the festival the best advantage they can when they leave the festival."

The films chosen for best feature, best short and best screenplay all receive deals with Valencia College for equipment and labor to produce a movie.

Springer said though film festivals might seem like they're for a certain demographic, they are accessible to everyone.

"Film festivals are so important to the culture of an area. I think there's a misconception that you have to be a film snob to go to a film festival," he said. "We show good movies. We laugh a lot, we hang out and make friends. There's nothing stuffy about what we do here."

If you go

The 18th Orlando Film Festival is Oct. 26-Nov. 2 at 155 S. Orange Ave. in Orlando. A one-day pass costs \$20, and a seven-day pass costs \$100. VIP passes are also available. For more information and a full schedule, visit orlandofilm.com.

Find me @PConn26 on Instagram or send me an email: pconnolly@orlandosentinel.com.

CITY OF KISSIMMEE NOTICE OF PUBLIC HEARING NOTICE OF LAND USE CHANGE

The City of Kissimmee proposes to adopt the following ordinance that would change the use of land as described below. A public hearing on this proposed ordinance will be held by the City of Kissimmee City Commission on Tuesday, November 7, 2023 at 6:00 p.m., or as soon thereafter as possible, at the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida.

PROPOSED ORDINANCE #23-002: AN ORDINANCE AMENDING ORDINANCE NO. 3050 KNOWN AS THE ORDINANCE AMENDING THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF KISSIMMEE, FLORIDA, UNDER THE AUTHORITY OF FLORIDA STATUTE 163.316, DIRECTING THE CITY MANAGER TO AMEND THE COMPREHENSIVE LAND USE PLAN AS HEREIN PROVIDED AFTER THE PASSAGE OF THIS ORDINANCE, PROVIDING FOR A PUBLIC HEARING AS REQUIRED BY LAW, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

FROM: Vacated ROW - County

TO: Commercial General (CG) - City

The subject property is vacated ROW located at Hillard Isle Rd. & Simpson Rd.

Portion of Parcel ID: 08-25-30-0000-0005-0000

Legal Description:

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

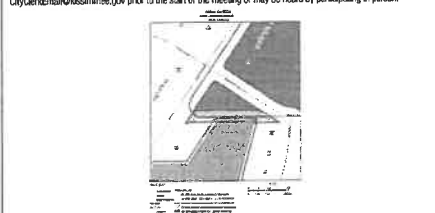
COMMENCING at the Southeast corner of the Northeast 1/4 of the Southwest 1/4 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 0°15'31" West, along the East line of the Northeast 1/4 of the Southwest 1/4 of said Section 8, for a distance of 45.36 feet to a point on the South right of way line of Hillard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 89°14'29" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 89°14'29" West, along said South right of way line, for a distance of 188.06 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a distance of 6.62 feet; thence run South 89°44'59" West for a distance of 76.84 feet; thence run South 87°58'45" West for a distance of 141.43 feet; thence run South 85°05'54" West for a distance of 67.34 feet; thence run South 87°15'41" West for a distance of 38.05 feet; thence run South 77°16'48" West for a distance of 67.46 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeast right of way line of Boggy Creek Road; thence departing said South right of way line, run North 23°50'27" East, along the said Southeast right of way line of Boggy Creek Road, for a distance of 157.77 feet to a point on the North right of way line of said Hillard Isle Road, said point being a point on a curve, concave Northeast, having a radius of 24.01 feet, a chord bearing of South 31°05'18" East and a chord distance of 33.10 feet; thence run Southeast along the said North right of way line of Boggy Creek Road, for a distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 87°21'58" East for a distance of 78.16 feet; thence run South 88°38'49" East for a distance of 186.47 feet; thence run South 89°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 55°09'33" East for a distance of 36.67 feet to the point of curvature of a curve, concave Northeast, having a radius of 280.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.94 feet; thence run Southeast along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.90 feet to the POINT OF BEGINNING.

Containing 37,474 square feet, or 0.75 acres, more or less.

The purpose of this public hearing is to consider a proposed amendment to Ordinance 3050, known as the Comprehensive Development Plan, which would change The 2025 Future Land Use Map of the Kissimmee Comprehensive Plan.

The proposed amendment and the supporting documents, including a parcel description, may be inspected in the Development Services Department, City Hall, 101 Church Street, Kissimmee, Florida, between 9:00 a.m. and 5:00 p.m., Monday through Friday. Please direct any questions to the Development Services Department, (407) 518-2140 or planning@kissimmee.gov.

Any interested party wishing to be heard on this issue may submit testimony to be read into the official record to CityClerk@kissimmee.gov prior to the start of the meeting or may be heard by participating in person.



Reference MAP 23-0002
HILLARD ISLE ROAD

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.

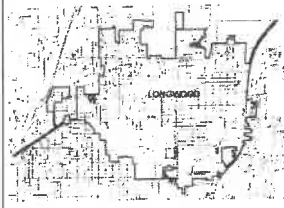
In accordance with Florida Statute 286.26, persons needing assistance to participate in any of these proceedings should contact the Office of the City Clerk (407) 518-2308 prior to the meeting. (FS286.26)

CITY OF LONGWOOD, FL NOTICE OF PUBLIC HEARING LONGWOOD CITY CODE AMENDMENT

NOTICE IS HEREBY GIVEN BY THE CITY OF LONGWOOD, FLORIDA, that the City Commission will conduct a public hearing on Ordinance No. 23-2247, on Monday, November 6, 2023 at 6:00 P.M., or as soon thereafter as possible in the Longwood City Commission Chambers, 175 West Warren Avenue, Longwood, Florida. The purpose of the public hearing is to receive public comment and to consider the proposed amendment. The proposed amendment affects the use of land within the municipal limits of the City of Longwood.

ORDINANCE NO. 23-2247

AN ORDINANCE OF THE CITY OF LONGWOOD, FLORIDA, AMENDING THE LONGWOOD CITY CODE CHAPTER 18 ARTICLE II "BUILDING PERMITS," DELETING SECTION 18-62 REGARDING APPEARANCE REQUIREMENTS FOR SINGLE-FAMILY RESIDENTIAL STRUCTURES IN DEED RESTRICTED SUBDIVISIONS; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.



At this meeting, interested parties may appear and be heard with respect to the request. This hearing may be continued from time to time until final action is complete.

A copy of the proposed Longwood City Code Amendment is available for review in the Community Development Department between 8:30 A.M. to 4:00 P.M. during regular work days. The office is located at 174 W. Church Avenue, Longwood, Florida, or you may call the office at 407-260-3462.

NOTICE: All persons are advised that if they decide to appeal any decision made at the meetings/hearings, they will need a record of the proceedings and for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record to include the testimony and evidence upon which the appeal is based (per Sec. 286.0105, Florida Statutes).

Persons with disabilities needing assistance to participate in any of these meetings should contact the A.D.A. Coordinator at 407-260-3466 at least 48 hours in advance of the meeting.

Publish: Thursday, October 26, 2023

NOTICE OF PUBLIC HEARING CITY COMMISSION

This is to inform you that the City of Kissimmee City Commission will make a recommendation to the City Commission concerning a request to amend the official Zoning Map, the City of Kissimmee Land Development Code Ordinance No. 3060 for the property described herein:

FROM: Vacated ROW - County

TO: B-2 (Neighborhood Commercial District) - City

The subject property is vacated ROW located at Hillard Isle Rd. & Simpson Rd.

Portion of Parcel ID: 08-25-30-0000-0005-0000

Legal Description:

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of the Northeast 1/4 of the Southwest 1/4 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 0°15'31" West, along the East line of the Northeast 1/4 of the Southwest 1/4 of said Section 8, for a distance of 45.36 feet to a point on the South right of way line of Hillard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 89°14'29" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 89°14'29" West, along said South right of way line, for a distance of 188.06 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a distance of 6.62 feet; thence run South 89°44'59" West for a distance of 76.84 feet; thence run South 87°58'45" West for a distance of 141.43 feet; thence run South 85°05'54" West for a distance of 67.34 feet; thence run South 87°15'41" West for a distance of 38.05 feet; thence run South 77°16'48" West for a distance of 67.46 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeast right of way line of Boggy Creek Road; thence departing said South right of way line, run North 23°50'27" East, along the said Southeast right of way line of Boggy Creek Road, for a distance of 157.77 feet to a point on the North right of way line of said Hillard Isle Road, said point being a point on a curve, concave Northeast, having a radius of 24.01 feet, a chord bearing of South 31°05'18" East and a chord distance of 33.10 feet; thence run Southeast along the said North right of way line of Boggy Creek Road, for a distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 87°21'58" East for a distance of 78.16 feet; thence run South 88°38'49" East for a distance of 186.47 feet; thence run South 89°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 55°09'33" East for a distance of 36.67 feet to the point of curvature of a curve, concave Northeast, having a radius of 280.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.94 feet; thence run Southeast along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.90 feet to the POINT OF BEGINNING.

Containing 37,474 square feet, or 0.75 acres, more or less.

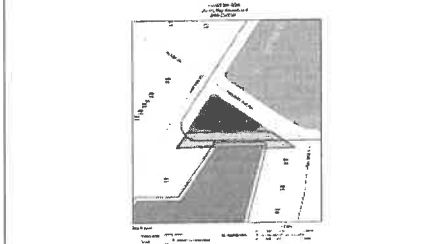
The purpose of this public hearing is to consider a proposed amendment to Ordinance 3060, known as the Comprehensive Development Plan, which would change the Zoning Map of the City of Kissimmee.

The proposed amendment and the supporting documents, including a parcel description, may be inspected in the City Commission Chambers, 175 West Warren Avenue, Longwood, Florida, between 9:00 a.m. and 5:00 p.m., Monday through Friday. Please direct any questions to the City Clerk, (407) 518-2308 or CityClerk@kissimmee.gov.

Any interested party wishing to be heard on this issue may submit testimony to be read into the official record to CityClerk@kissimmee.gov prior to the start of the meeting or may be heard by participating in person.

Reference: ZMA-23-0003

HILLARD ISLE ROAD



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 proceedings should contact the Office of the City Clerk (407) 518-2308 prior to the meeting. (FS286.26)

ITEM 4.C

Public Hearing - Final Reading - Proposed Ordinance #23-10 - Ordinance amending the Zoning Map designation from County Vacated Right-of-Way to City Neighborhood Commercial (B-2): Hilliard Isle ROW, ZMA-23-0003

AN ORDINANCE AMENDING ORDINANCE NO. 3068 KNOWN AS THE CITY OF KISSIMMEE LAND DEVELOPMENT CODE, REZONING THE PROPERTY HEREINAFTER DESCRIBED, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Request

Approval of a Zoning Map Amendment to change the Zoning designation from County Vacated Right-of-Way to City Neighborhood Commercial (B-2) on approximately 0.79 acres of land.

Explanation

The subject parcel is in the Neighborhood Commercial (B-2) zoning district and has a total land area of 1.3 acres of land. A portion to the south of this property, approximately 0.79 acres of land, is currently in Osceola County jurisdiction with no zoning designation (classified as Vacated ROW). The applicant has requested to annex this portion of vacated ROW in order to develop the site in the near future.

The subject site has gone through various changes over time. In 2000, the City of Kissimmee Commission approved an annexation request, which included a portion of the subject property to the south (please see attached Ordinance #2410). It was during this time that Hilliard Isle Road was to the south of the subject property. In 2007, a final plat was approved by the City of Kissimmee where it introduced a realignment of Hilliard Isle Road to the north of the subject property (refer to attached Final Map "Hilliard Isle Commercial Center"). In 2015, the Board of County Commissioners of Osceola County approved the vacation of right-of-way of Hilliard Isle Road to the south (refer to Osceola County Vacation ROW Map). Since then, this portion has remained in Osceola's County jurisdiction as a vacated ROW.

FINDINGS AND REASONS:

1. Compliance with the intent of the Neighborhood Commercial (B-2) zoning district as outlined in Section 14-4-4(l) of the Land Development Code.
2. Compliance with the allowable uses as outlined in Section 14-4-5, Table 4-2, is consistent and compatible with the surrounding area.
3. Compliance with Land Development Code Section 14-3-27, Zoning map and Land Development Code (LDC) amendments, in regards to the submittal and review procedures and criteria to support an amendment.
4. Compliance with Comprehensive Plan Future Land Use Policy 1.2.3.2, Commercial General, in that this designation is compatible with the Neighborhood Commercial (B-2) Zoning designation.

Recommendation

REQUESTED PLANNING ADVISORY BOARD ACTION:

Approve w/Conditions

City of Kissimmee

The Development Review Committee (DRC) recommended approval on May 2, 2023.

The Planning Advisory Board (PAB) recommended approval by a vote of 4-0 on June 7, 2023.

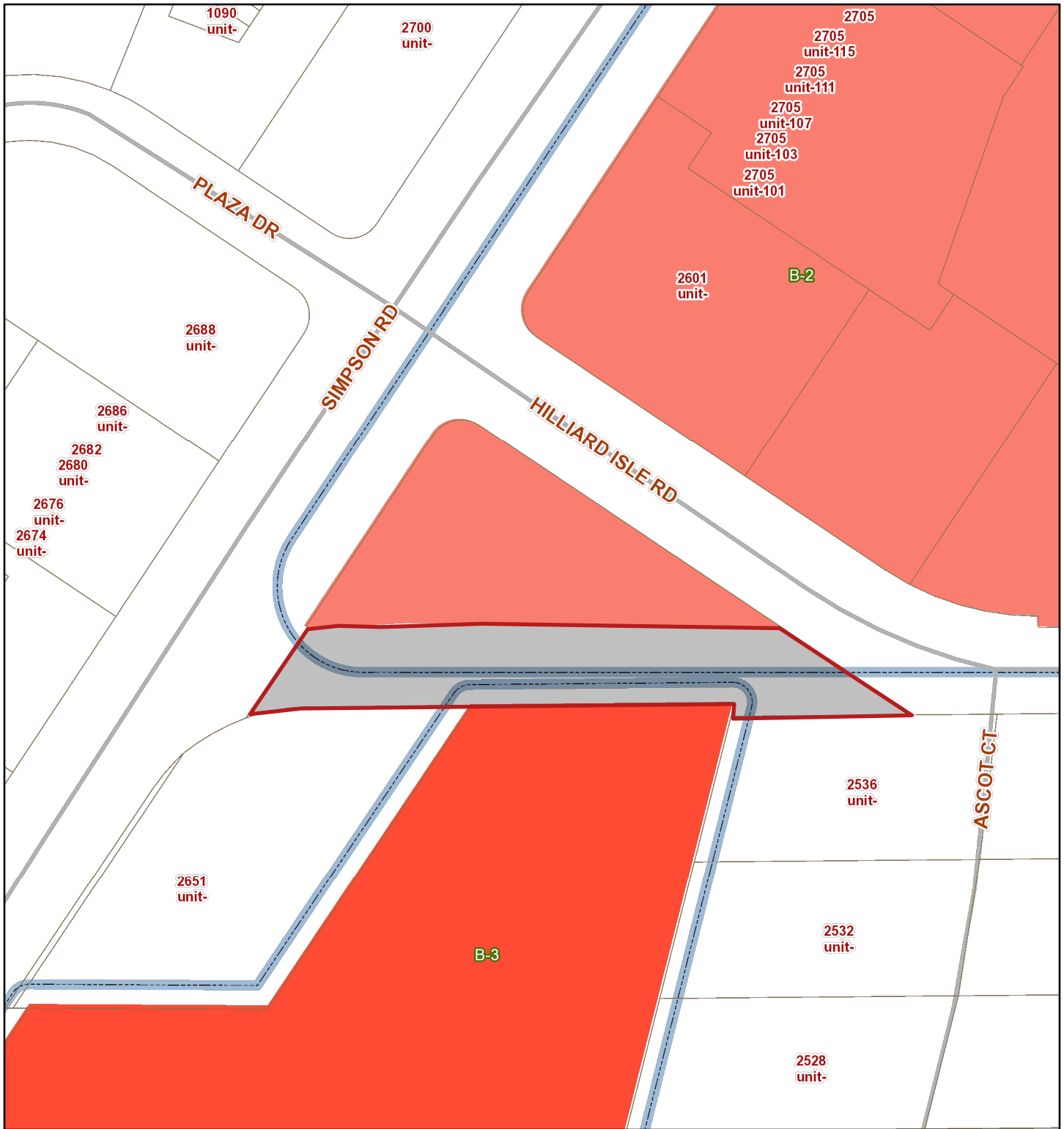
CONDITION:

1. Subject to the approval of the associated Hilliard Isle ROW Annexation (AX-23-0001) and Land Use Plan Amendment (LUPA-23-0002).

Attachment(s):

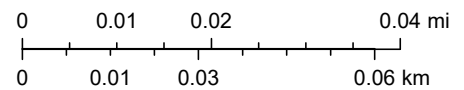
1. ZMA-23-0003 Vicinity Map
2. ZMA-23-0003 Aerial Map
3. ZMA-23-0003 Site Data Tables
4. (S)ZMA-23-0003 Proposed Ordinance 23-10
5. ZMA-23-0003 City Commission Ad
6. ZMA-23-0003 June 7, 2023 PAB Minutes
7. ZMA-23-0003 DRC Comments
8. ZMA-23-0003 DRC Application
9. ZMA-23-0003 Affidavit of Publication (Orlando Sentinel)

Hilliard Isle ROW Zoning Map Amendment ZMA-23-0003

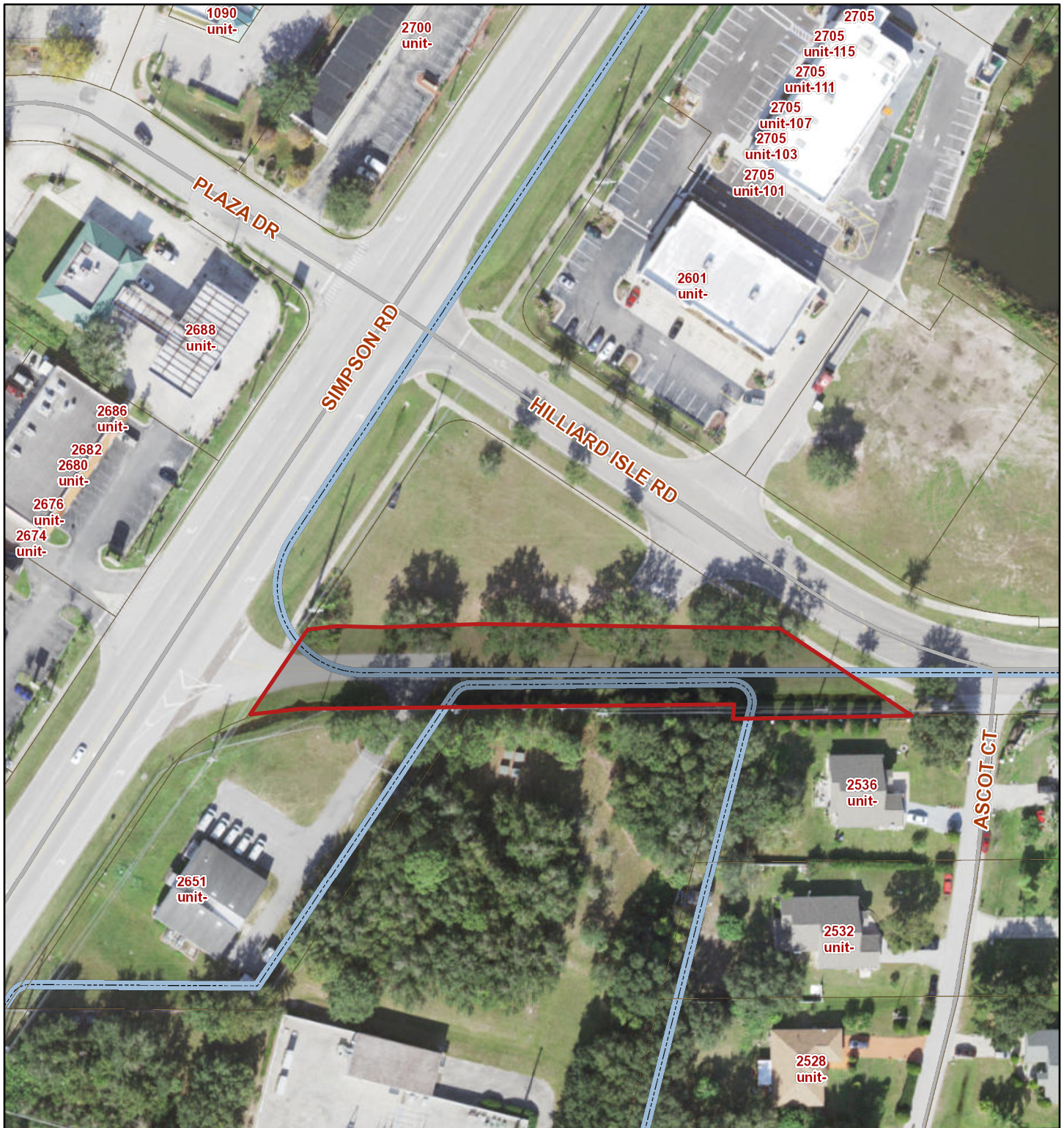


May 9, 2023

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Hilliard Isle ROW Zoning Map Amendment ZMA-23-0003

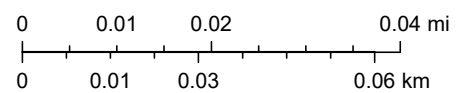


May 9, 2023

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- Address Points
- Parcels
- Road Centerlines
- City Limits
- CITY
- COUNTY

- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 30cm Resolution Metadata



State of Florida, Maxar

Hilliard Isle ROW Zoning Map Amendment, ZMA-23-0003
Portion of Parcel ID# 08-25-30-1534-0001-0010
East of Simpson Road and North of Hilliard Isle Road.
Site Data Tables

Site Data	
Size	0.79 acres
Future Land Use Designation	N/A (Vacated Right Of Way)(ROW) – County
Proposed Future Land Use Designation	Commercial General (CG) – City
Zoning District Designation	N/A (Vacated ROW) – County
Proposed Zoning District Designation	Neighborhood Commercial District (B-2) - City
Existing Overlay District	N/A
Existing Use(s)	Vacated ROW
Proposed Use(s)	Commercial
Adjacent Land Use	
North	Commercial General (CG) – City
South	Utilities (UT) - City, Commercial - County, & Low Density Residential (LDR) – County
East	N/A Hilliard Isle Road - County
West	N/A Simpson Road - County
Adjacent Zoning	
North	Neighborhood Commercial District (B-2) - City
South	General Commercial (B-3) – City, Estate (E-1) – County, & Residential (RS-1A) – County
East	N/A Hilliard Isle Road - County
West	N/A Simpson Road - County
Zoning History	N/A - This portion of this parcel is currently within County jurisdiction.
Past/Current Project Tracking	00-0036 Annexation 00-0037 Land Use Amend. (CG County to CG City) 00-0038 Rezoning (CR- County to B-2 City) AX-23-0001 Annexation (<i>Pending</i>) LUPA-23-0002 Land Use Amendment (<i>Pending</i>)

Comprehensive Plan Summary
Policy 1.2.3.2, Commercial General (CG): The Commercial General land use designation is intended to include the hub of retail sales and services within the downtown business district as well as highly accessible areas adjacent to major thoroughfares and transit facilities, that possess necessary location, site, and market requirements. This future land use designation shall be implemented through the City's Land Development Code. This area is not intended to accommodate manufacturing, processing, or assembly of goods, sales and service of heavy commercial vehicle and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities which may generate nuisance impacts, including glare, smoke or other air pollutants, noise, vibration or major fire hazards. Development and redevelopment projects within this future land use designation

may be built with an intensity of up to 2.5 FAR.

Potential Zoning Districts	Agriculture and Conservation District (AC)
	Neighborhood Commercial District (B-2)
	General Commercial District (B-3)
	Highway Commercial District (HC)
	Office Commercial District (B-5)

Zoning District Standards District Summary

Land Development Code Section 14-4-4(I), Neighborhood Commercial (B-2) Intent: 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.

Comprehensive Plan Future Land Use & Zoning Comparisons

	<i>Existing Future Land Use & Zoning</i>	<i>Requested Future Land Use & Zoning</i>
Uses	N/A Vacated ROW	Commercial General (CG) – City 2.5 Max. Floor Area Ratio (FAR) Future Land Use
	N/A Vacated ROW	Neighborhood Commercial (B-2) - City Zoning
	Vacated ROW	Commercial

Public Facilities Analysis

Transportation	
Adjacent street	Simpson Road, Hilliard Isle Road
Street Quality of Service (QOS)	Adjacent Streets are under Osceola County jurisdiction.
Sanitary Sewer	
Is volume less than 98% capacity?	N/A – Compliance
Potable Water	
Is volume less than 98% capacity?	N/A – Compliance
Is water pressure at least 40lbs per square inch?	N/A – Compliance
Solid Waste	
Is volume less than 5.1lbs per person per calendar day?	N/A – Compliance
Recreation	

Is active recreation area at least 2 acres per 1,000 population?	N/A – Compliance
Is urban open space area at least 2 acres per 1,000 population?	N/A – Compliance
Is total recreation area at least 4 acres per 1,000 population?	N/A – Compliance
Drainage	
Is off-site discharge; runoff velocities; roadway drainage; pavement; retention; and flood storage LOS standards met?	N/A- Compliance

PROPOSED ORDINANCE NO. 23-10
ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. 3068
KNOWN AS THE CITY OF KISSIMMEE LAND
DEVELOPMENT CODE, REZONING THE PROPERTY
HEREINAFTER DESCRIBED, REPEALING ALL
ORDINANCES IN CONFLICT HERewith AND PROVIDING
AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE CITY COMMISSION THAT ORDINANCE NO. 3068 KNOWN AS THE CITY OF KISSIMMEE LAND DEVELOPMENT CODE IS HEREBY AMENDED TO READ AS FOLLOWS:

SECTION 1. Ordinance No. 3068, known as the City of Kissimmee Land Development Code, is hereby amended so as to rezone the following described property to-wit:

FROM: Vacated ROW (Right-of-Way) – County

TO: B-2 (Neighborhood Commercial) – City

The subject property is vacated ROW located at Hilliard Isle Rd. & Simpson Rd.
Portion of Parcel ID: 08-25-30-0000-0085-0000

Legal Description:

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of the Northeast 114 of the Southwest 114 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 00°13'31" West, along the East line of the Northeast 114 of the Southeast 114 of said Section 8, for a distance of 43.99 feet to a point on the South right of way line of Hilliard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 89°17' 43" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 8°17' 43" West, along said South right of way line, for a distance of 188.08 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a distance of 9.62 feet; thence run South 89°44'59" West for a distance of 76.84 feet; thence run South 87°58' 45" West for a distance of 141.43 feet; thence run South 85°00'54" West for a distance of 67.54 feet; thence run South 82°16' 44" West for a distance of 38.05 feet; thence run South 77°16' 48" West for a distance of 67.66 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeasterly right of way line of Boggy Creek Road; thence departing said South right of way line, run North 33°50'27" East, along the said Southeasterly right of way line of Boggy Creek Road, for a distance of 167.77 feet to a point on the North right of way line of said Hilliard Isle Road, said point being a point on a curve, concave Northeasterly, having a radius of 24.01 feet, a chord bearing of South

31°05'18" East and a chord distance of 33.10 feet; thence run Southeasterly along the arc of said curve through a central angle of 87°07'13" for an arc distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 87°21'58" East for a distance of 78.16 feet; thence run South 88°36'49" East for a distance of 166.47 feet; thence run South 89°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 56°09'33" East for a distance of 39.97 feet to the point of curvature of a curve, concave Northeasterly, having a radius of 290.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.94 feet; thence run Southeasterly along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.90 feet to the POINT OF BEGINNING.

Containing 37,474 square feet, or 0.79 acres, more or less.

A map of the area is included with this ordinance.

SECTION 2. Upon the effective date of this ordinance, the City Manager shall promptly cause the rezoning as provided in Section 1 herein to be entered onto the official zoning map of the City of Kissimmee.

SECTION 3. Except as hereby amended said City of Kissimmee Land Development Code Ordinance No. 3068 as heretofore amended shall remain in full force and effect.

SECTION 4. This Ordinance shall take effect 10 days after its passage.

BE IT ORDAINED, by the City Commission of the City of Kissimmee, this 7th day of November, 2023.

Mayor - Commissioner

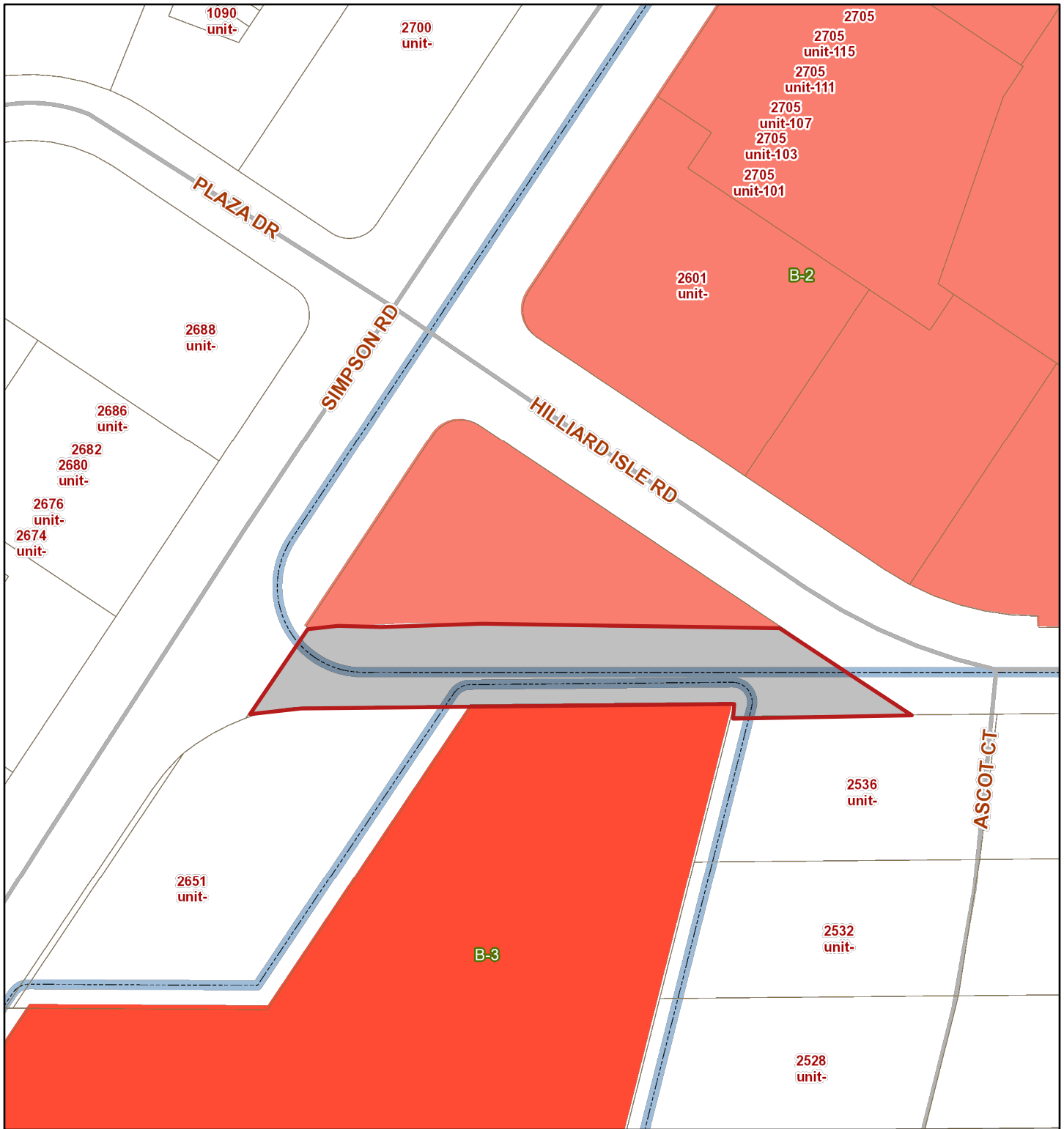
ATTEST:

City Clerk

Approved as to form and legality:

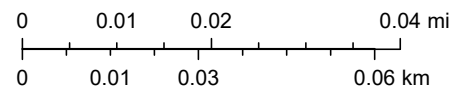
City Attorney

Hilliard Isle ROW Zoning Map Amendment ZMA-23-0003



May 9, 2023

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NOTICE OF PUBLIC HEARING CITY COMMISSION

This is to inform you that the City of Kissimmee City Commission will make a recommendation to the City Commission concerning a request to amend the official Zoning Map, the City of Kissimmee Land Development Code Ordinance No. 3068 for the property described herein:

FROM: **Vacated ROW – County**

TO: **B-2 (Neighborhood Commercial District) – City**

The subject property is vacated ROW located at Hilliard Isle Rd. & Simpson Rd.

Portion of Parcel ID: 08-25-30-0000-0085-000008

Legal Description:

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of the Northeast 114 of the Southwest 114 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 00°13'31" West, along the East line of the Northeast 114 of the Southeast 114 of said Section 8, for a distance of 43.99 feet to a point on the South right of way line of Hilliard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 89°17' 43" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 8°17' 43" West, along said South right of way line, for a distance of 188.08 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a distance of 9.62 feet; thence run South 89°44'59" West for a distance of 76.84 feet; thence run South 87°58' 45" West for a distance of 141.43 feet; thence run South 85°00'54" West for a distance of 67.54 feet; thence run South 82°16' 44" West for a distance of 38.05 feet; thence run South 77°16' 48" West for a distance of 67.66 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeasterly right of way line of Boggy Creek Road; thence departing said South right of way line, run North 33°50'27" East, along the said Southeasterly right of way line of Boggy Creek Road, for a distance of 167.77 feet to a point on the North right of way line of said Hilliard Isle Road, said point being a point on a curve, concave Northeasterly, having a radius of 24.01 feet, a chord bearing of South 31°05'18" East and a chord distance of 33.10 feet; thence run Southeasterly along the arc of said curve through a central angle of 87°07'13" for an arc distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 87°21' 58" East for a distance of 78.16 feet; thence run South 88°36' 49" East for a distance of 166.47 feet; thence run South 89°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 56°09'33" East for a distance of 39.97 feet to the point of curvature of a curve, concave Northeasterly, having a radius of 290.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.94 feet; thence run Southeasterly along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.90 feet to the POINT OF BEGINNING.

Containing 37,474 square feet, or 0.79 acres, more or less.

PROPOSED ORDINANCE# 23-10: AN ORDINANCE AMENDING ORDINANCE NO. 3068 KNOWN AS THE CITY OF KISSIMMEE LAND DEVELOPMENT CODE, REZONING THE PROPERTY HEREINAFTER DESCRIBED, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

The City Commission will hold a Public Hearing on **Tuesday, November 7, 2023** at 6:00 p.m. in the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida, and will consider the adoption of an Ordinance to rezone the above described property following the public hearing.

A copy of the proposed Ordinance may be inspected in the office of the Development Services Department at City Hall, 101 Church Street. All interested parties may appear and be heard on the above date. Written opinion will be received until 5:30 p.m., **Tuesday, November 7, 2023**. 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 # **ZMA-23-0003**

Hilliard Isle ROW

**CITY COMMISSION
KISSIMMEE, FLORIDA**



In accordance with [Florida Statutes](#) 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.

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)



**MEETING MINUTES
SESSION OF THE PLANNING ADVISORY BOARD
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
WEDNESDAY, JUNE 7, 2023 AT 6:00 PM**

1. **MEETING CALLED TO ORDER Members Present:** Board Member Robert Bussiere, Board Member Robert Spalding, Board Member Melissa Thacker, Board Member Sylvette Santos
Staff Present: Deputy City Attorney Kalanit Oded, Senior Planner Cristian Arias, Planning Manager Brenda Ryan, Planning Technician Yolanda Hazley
Members Absent: Board Member Diana Marrero-Pinto, Board Member Fatima Santiago

Chairman Bussiere called the meeting to order at 06:01 PM.

2. **MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE** After a Moment of Silence, Chairman Bussiere led the audience in the Pledge of Allegiance.

3. **MINUTES**

- 3.A Approval of the May 17, 2023 Planning Advisory Board (PAB) Meeting Minutes.
 Board Member Spalding made a motion to Approve. Board Member Thacker seconded the motion.

AYE: Board Member Bussiere, Board Member Santos
 NAY: None

Motion to Approve Passed 4 - 0.

4. **OLD BUSINESS**

5. **NEW BUSINESS**

- 5.A Public Hearing - Ordinance to annex 0.79 acres of land - AX-23-0001 - Proposed Ordinance #23-08

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN HEREIN DESCRIBED LAND, TO THE CITY OF KISSIMMEE, FLORIDA, FURTHER PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH LAND AFTER ITS ANNEXATION, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Senior Planner Arias stated that this is a request for an Annexation to annex 0.79 acres of land. The subject property is located at the SE corner of Simpson Rd. and Hilliard Isle.

Staff recommends approval for the following reasons:

1. Compliance with Chapter 171 of the Florida Statutes as it meets all the criteria for voluntary annexation as the property is contiguous, or adjacent, to the City Limits along the northern and southern boundaries of the parcel. Public services, including water, sewer, drainage, and emergency services are already provided to these adjacent City parcels. The subject property is reasonably compact and will not result in the creation of an enclave if annexed.
2. Compliance with Section 14-3-25 annexation regulations outlined in the Land Development Code that refers to Chapter 171, Florida Statutes, and the general

annexation procedures in the City's Comprehensive Plan utilizing either the City's land use conversion table in Future Land Use Policy 1.1.10.5, an Annexation Agreement, or a Future Land Use Map amendment. A concurrent Future Land Use Amendment (LUPA-23-0002) will be utilized to establish the Future Land Use designation on this property.

Jeremy Anderson, 4016 Edgewater Dr. Orlando, FL representing the applicant was available for any questions.

Board Member Spalding made a motion to Approve. Board Member Thacker seconded the motion.

AYE: Board Member Bussiere, Board Member Santos
NAY: None

Motion to Approve Passed 4 - 0.

5.B Public Hearing – An Ordinance amending the Future Land Use Map designation from County Vacated Right-of-Way (ROW) to City Commercial General (CG): Hilliard Isle ROW Vacation, LUPA-23-0002 - Proposed Ordinance #23-09

AN ORDINANCE AMENDING ORDINANCE NO. 3050 KNOWN AS THE ORDINANCE ADOPTING THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF KISSIMMEE, FLORIDA, UNDER THE AUTHORITY OF FLORIDA STATUTE 163.3184; DIRECTING THE CITY MANAGER TO AMEND THE COMPREHENSIVE LAND USE PLAN AS HEREIN PROVIDED AFTER THE PASSAGE OF THIS ORDINANCE; PROVIDING FOR A PUBLIC HEARING AS REQUIRED BY LAW; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

Senior Planner Arias stated that this is a request for a Land Use Plan Amendment to the Future Land Use Map designation from Vacated Right-of-Way (County) to CG- (Commercial General) - City on approximately 0.79 acres of land.

Staff recommends approval for the following reasons:

1. Compliance with Policy 1.2.3.2, Commercial General (CG): Future Land Use Designation, that is intended to accommodate office uses, general retail sales, and service uses that are highly accessible and adjacent to major thoroughfares and transit facilities and possess necessary location, site, and market requirements.
2. Compliance with Land Development Code Section 14-3-26, Comprehensive Plan Text and Map Amendments, in regards to the submittal and review procedures and criteria to support an amendment.

Staff recommends approval subject to the following 1 condition:

1. Subject to the approval of the Hilliard Isle ROW Annexation (AX-23-0001).

Board Member Spalding made a motion to Approve subject to 1 condition. Board Member Thacker seconded the motion.

1. Subject to the approval of the Hilliard Isle ROW Annexation (AX-23-0001).

AYE: Board Member Bussiere, Board Member Santos
NAY: None

Motion to Approve w/Conditions Passed 4 - 0.

- 5.C Public Hearing - An Ordinance amending the Zoning Map designation from County Vacated Right-of-Way to City Neighborhood Commercial (B-2): Hilliard Isle ROW, ZMA-23-0003 - Proposed Ordinance #23-10

AN ORDINANCE AMENDING ORDINANCE NO. 3068 KNOWN AS THE CITY OF KISSIMMEE LAND DEVELOPMENT CODE, REZONING THE PROPERTY HEREINAFTER DESCRIBED, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

Senior Planner Arias stated that this is a request for approval of a Zoning Map Amendment to change the zoning from Vacated Right-of-Way (County) to B-2 (Neighborhood Commercial) City on approximately 0.79 acres of land.

Staff recommends approval for the following reasons:

1. Compliance with the intent of the Neighborhood Commercial (B-2) zoning district as outlined in Section 14-4-4(I) of the Land Development Code.
2. Compliance with the allowable uses as outlined in Section 14-4-5, Table 4-2, is consistent and compatible with the surrounding area.
3. Compliance with Land Development Code Section 14-3-27, Zoning map and Land Development Code (LDC) amendments, in regards to the submittal and review procedures and criteria to support an amendment.
4. Compliance with Comprehensive Plan Future Land Use Policy 1.2.3.2, Commercial General, in that this designation is compatible with the Neighborhood Commercial (B-2) Zoning designation.

Staff recommends approval subject to the following 1 condition:

1. Subject to the approval of the associated Hilliard Isle ROW Annexation (AX-23-0001) and Land Use Plan Amendment (LUPA-23-0002).

Board Member Thacker made a motion to Approve with 1 Condition. Board Member Spalding seconded the motion.

- 1. Subject to the approval of the associated Hilliard Isle ROW Annexation (AX-23-0001) and Land Use Plan Amendment (LUPA-23-0002).**

AYE: Board Member Bussiere, Board Member Santos

NAY: None

Motion to Approve w/Conditions Passed 4 - 0.

6. PUBLIC HEARINGS

7. DISCUSSION

8. HEAR CHAIRMAN AND BOARD MEMBERS

9. **ADJOURNMENT** Board Member Spalding made a motion to Adjourn. Board Member Thacker seconded the motion.

AYE: Board Member Bussiere, Board Member Santos

NAY: None

Motion to Adjourn Passed 4 - 0.

There being no further business to come before the Planning Advisory Board, Chairman Bussiere adjourned the meeting at 06:21 PM.

A handwritten signature in blue ink, appearing to read "Robert P. Bussiere", written over a solid black horizontal line.

Board Chairman

ATTEST:

A handwritten signature in blue ink, written over a solid black horizontal line. The signature is stylized and appears to be "Jill Anderson".

Board Secretary



DEVELOPMENT SERVICES DEPARTMENT

PLANNING DIVISION

101 CHURCH STREET - KISSIMMEE, FLORIDA 34741 - 407.518.2140

DEVELOPMENT PROJECT COMMENT FORM

THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGОВ & BLUEBEAM

ADDRESS: 08-25-30-1534-0001-0010

DATE: 4/12/2023

PLAN (DRC) NUMBER: ZMA-23-0003

Review Status:
APPROVED WITH CONDITIONS.

PLANNING DIVISION - Cristian I. Arias - 407-518-2373 Cristian.Arias@kissimmee.gov

This application was initiated by the applicant to designate a Zoning Map Amendment from County Vacated ROW to City of Kissimmee Neighborhood Commercial (B-2) zoning, which is subject to Planning and Advisory, and City Commission review and approval.

This application is part of Annexation SP-23-0001.

GENERAL (if applicable to project)

1. Signage must be reviewed and approved under a separate building permit; not part of this approval.
2. Any Mobility and Impact fees will be due at the time of permit issuance. To find out more information please contact Juan F. Hernandez at 407-518-2233 for Mobility fees and Toho Water Authority at 407-944-5000 for water/sewer impact fees.

If you have any questions regarding the comments/conditions above, please use the contact information provided.

Please login to the Citizen Self Service portal at www.kissimmee.gov.energov to upload a response to comments.

Additional comments may be forth coming as a result of revisions to the plans, any new changes in the information provided, future plan review up to plan approval and permitting and/or with submittal of supporting documentation. When submitting, please provide a response to comments outlining where and how the comments have been addressed.



THE SCHOOL DISTRICT OF OSCEOLA COUNTY, FLORIDA
PLANNING SERVICES DEPARTMENT
SCHOOL CAPACITY REPORT

SDOC#: 2020/21-0080

DRC#: ZMA-23-0003

Current FLU: Comm Gen
Requested FLU: n/a

PROJECT NAME: Hilliard Isle ROW Vacate FLU amendment

PROJECT LOCATION: Hilliard Isle Comm. Center

Current Zoning: Comm Gen
Requested Zoning: B-2

COMMENTS DUE DATE: 4.12.2023

PID#: 08-25-30-1534-0001-0010

This zoning map amendment has no impact on public school capacity.



THE FOLLOWING SHALL BE USED AS AN ADDENDUM TO ANY PLAN, FILE, OR OTHER DOCUMENT REVIEWED IN ENERGОВ & BLUEBEAM

ADDRESS: Hilliard Isle Rd., Kissimmee, 34744
PLAN (DRC) NUMBER: ZMA-23-0003

DATE: 4/12/2023

**Review Status:
APPROVED.**

**OSCEOLA COUNTY SCHOOL DISTRICT - Tamara Pelc - 407.518.2964 ext. 65411 -
Tamara.Pelc@osceolaschools.net**

Comments/Conditions (if applicable): This zoning map amendment has no impact on public school capacity.

If you have any questions regarding the comments/conditions above, please use the contact information provided.

Please login to the Citizen Self Service portal at www.kissimmee.gov.energov to upload a response to comments.

Additional comments may be forthcoming as a result of revisions to the plans, any new changes in the information provided, future plan review up to plan approval and permitting and/or with submittal of supporting documentation. When submitting, please provide a response to comments outlining where and how the comments have been addressed.



Katrina S. Scarborough, CFA, CCF, MCF
Osceola County Property Appraiser
www.property-appraiser.org
Osceola County Government Center
2505 East Irlo Bronson Memorial Hwy, Kissimmee, FL 34744
Ph: (407) 742-5000 Fax: (407) 742-4900

Parcel: 08-25-30-1534-0001-0010



Owner Information

Owner Name NADINA CAPITAL GROUP LLC

Mailing Address 1000 COLOUR PL
APOPKA, FL 32703

Physical Address HILLIARD ISLE RD, KISSIMMEE FL 34744

Description VACANT COMMERCIAL

Tax District 200 - KISSIMMEE

Tax Values

Current Values

Current Value represents working appraised values as of 02/22/2023, which are subject to change prior to certification

Land	\$793,500
AG Benefit	\$0
Extra Features	\$0
Buildings	\$0
Appraised(just)	\$793,500
Assessed(estimated)	\$382,173
Exemption(estimated)	\$0
Taxable(estimated)	\$382,173

* Assessed Values Reflect Adjustments for Agricultural Classification and/or the Save Our Homes Cap

Certified Values

Certified Value represents certified values that appeared on the tax roll as of 10/05/2022

Land	\$793,500
AG Benefit	\$0
Extra Features	\$0
Buildings	\$0
Appraised(just)	\$793,500
Assessed*	\$347,430
Exemption	\$0
Taxable	\$347,430

* Assessed Values Reflect Adjustments for Agricultural Classification and/or the Save Our Homes Cap

Sales Information

Seq	ORB-Pg	Price	Date	Deed Type
0	4254-2883	\$400,000	2012-03-29	SW
1	4211-2209	\$100	2011-12-15	CT

Land Information - Total Acreage: 1.30

Land Description	Units	Depth	Land Type	Land Value
COMMERCIAL SF	60112.80	0.00	SF	\$793,500

Legal Description

Legal Description	HILLIARD ISLE COMMERCIAL CENTER PB 21 PG 45 LOT 1 AND THAT PORTION OF VAC HILLIARD ISLE RD ABUTTING S SIDE
--------------------------	---

Orlando Sentinel

MEDIA GROUP

Published Daily
ORANGE County, Florida

Sold To:

City of Kissimmee Planning Services - CU80085212
101 Church St, Ste 110
Kissimmee, FL, 34741

Bill To:

City of Kissimmee Planning Services - CU80085212
101 Church St, Ste 110
Kissimmee, FL, 34741

**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 26, 2023.

Affiant further says that the newspaper complies with all legal requirements
for publication in Chapter 50, Florida Statutes.



Rose Williams

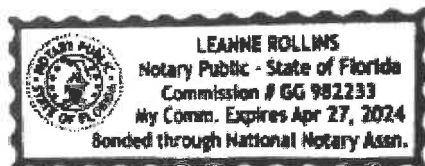
Signature of Affiant

Name of Affiant

Sworn to and subscribed before me on this 26 day of October, 2023,
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

7512623

Comedy Lab to stay put through February

By Matthew J. Palm
Orlando Sentinel

SAK Comedy Lab will be able to continue performing in its Orange Avenue theater through February after reaching a deal that allows the organization to remain there until its new space is ready for a March 1 grand opening.

The improv-comedy company on Tuesday afternoon announced it had been able to negotiate a lease extension at its current location, 29 S. Orange Ave. That building is being renovated as a future home for the Parliament House nightclub, although the last public update on construction progress from Parliament House — the storied gay resort formerly located on Orange Blossom Trail — was made more than a year ago.

SAK's lease was set to expire in November, well before its future home could be turned into a theater. That location is right around the corner, less than a quarter-mile away, in the 55 West



SAK Comedy Lab plans to move to this corner of the Church Street Market, above the Artisan's Table restaurant, YANLEY AGUILAR/ORLANDO FRINGE

complex on Church Street. The second-floor theater will face Orlando Fringe's Artspace. The preliminary work to renovate the new space is in progress, SAK executive director Chris Dinger said in a message to the Orlando Sentinel.

"We have received permits back to begin construction and we will under way with Adirondack Studios in designing a really cool, refreshed SAK experience,"

he wrote. Previously, the company had anticipated it might have to temporarily go dark during a transition from the old space to the new, but the lease extension means "no down time," Dinger said.

The move to 55 West will increase parking options for patrons and provide a less rowdy atmosphere than the main drag of Orange Avenue, Dinger had previously told the Sentinel.

"We believe the minimal distance will make a world of difference in the accessibility and a brand new start for our beloved brand," he reiterated to SAK fans on Wednesday in an electronic newsletter.

The relocation is estimated to cost about \$1 million, but Dinger said SAK had been saving for years in anticipation of an eventual move.

Founded in 1991, SAK not only presents a variety of public improv shows but also teaches classes in the art form and entertains at corporate and other special events. Its most famous alumnus is Wayne Brady, who hosts CBS' "Let's Make a Deal" game show.

For more information, go to sakcomedylab.com.

Follow me at Facebook: [matthewjpalm](https://www.facebook.com/matthewjpalm) or email me at mpalm@orlandosentinel.com. Find more news and reviews at orlandosentinel.com/arts, and go to orlandosentinel.com/theater for theater news and reviews.

Film festival will have more than 250 films

By Patrick Connolly
Orlando Sentinel

An annual celebration of cinema returns to downtown Orlando for its 18th year, drawing filmmakers from around the country and world for a week of festivities.

The Orlando Film Festival is showing a total of 257 feature-length films, documentaries and shorts at the CMX Cinema Plaza Café 12 in downtown Orlando. With single-day and 7-day passes available, Central Floridians can explore the range of cinematic offerings Oct. 26-Nov. 2.

"Orlando Film Festival is a film festival for filmmakers by filmmakers. Every single person on my staff is a filmmaker," said Daniel Springer, a 20-year veteran of the film industry and the

festival's executive director who personally watches every film submitted.

The opening night film, "Art Thief," premieres at 8 p.m. Oct. 26 and is a fictionalized account of the 1990 robbery of the Isabella Stewart Gardner Museum in Boston. Other feature-length films tell stories centered on action, grief, identity, mental health and more.

The festival also shows a swath of documentary films on topics from cannibal cultivation, African-American music, picky eaters and how the military plays a role in Hollywood. "Downwind" is a feature-length documentary examining how nuclear testing in Nevada impacted Native American communities.

This year's event draws films from around the world, including Japan, China, Australia, France, Ireland, Switzerland, Macedonia and Costa Rica. Throughout the week-long festival, an estimated 12,000 attendees will see screenings of films that are all vying for 40 different awards.

"We'll give out awards for everything if it's deserving," Springer said. "We're going to give our filmmakers in the festival the best advantage they can when they leave the festival."

The films chosen for best feature, best short and best screenplay all receive deals with Valencia College for equipment and labor to produce a movie.

Springer said though film festivals might seem like they're for a certain demographic, they are accessible to everyone.

"Film festivals are so important to the culture of an area. I think there's a misconception that you have to be a film snob to go to a film festival," he said. "We show good movies. We laugh a lot, we hang out and make friends. There's nothing stuffy about what we do here."

If you go

The 18th Orlando Film Festival is Oct. 26-Nov. 2 at 155 S. Orange Ave. in Orlando. A one-day pass costs \$20, and a seven-day pass costs \$100. VIP passes are also available. For more information and a full schedule, visit orlandofilm.com.

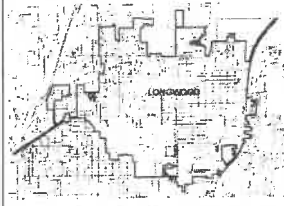
Find me @PConnolly on Instagram or send me an email: pconnolly@orlandosentinel.com.

CITY OF LONGWOOD, FL NOTICE OF PUBLIC HEARING LONGWOOD CITY CODE AMENDMENT

NOTICE IS HEREBY GIVEN BY THE CITY OF LONGWOOD, FLORIDA, that the City Commission will conduct a public hearing on Ordinance No. 23-2247, on Monday, November 6, 2023 at 6:00 P.M., or as soon thereafter as possible in the Longwood City Commission Chambers, 175 West Warren Avenue, Longwood, Florida. The purpose of the public hearing is to receive public comment and to consider the proposed amendment. The proposed amendment affects the use of land within the municipal limits of the City of Longwood.

ORDINANCE NO. 23-2247

AN ORDINANCE OF THE CITY OF LONGWOOD, FLORIDA, AMENDING THE LONGWOOD CITY CODE CHAPTER 18 ARTICLE II "BUILDING PERMITS," DELETING SECTION 18-62 REGARDING APPEARANCE REQUIREMENTS FOR SINGLE-FAMILY RESIDENTIAL STRUCTURES IN DEED RESTRICTED SUBDIVISIONS; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.



At this meeting, interested parties may appear and be heard with respect to the request. This hearing may be continued from time to time until final action is complete.

A copy of the proposed Longwood City Code Amendment is available for review in the Community Development Department between 8:30 A.M. to 4:00 P.M. during regular work days. The office is located at 174 W. Church Avenue, Longwood, Florida, or you may call the office at 407-260-3462.

NOTICE: All persons are advised that if they decide to appeal any decision made at the meetings/hearings, they will need a record of the proceedings and for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record to include the testimony and evidence upon which the appeal is based (per Sec. 286.0105, Florida Statutes).

Persons with disabilities needing assistance to participate in any of these meetings should contact the A.D.A. Coordinator at 407-260-3466 at least 48 hours in advance of the meeting.

Publish: Thursday, October 26, 2023

CITY OF KISSIMMEE NOTICE OF PUBLIC HEARING NOTICE OF LAND USE CHANGE

The City of Kissimmee proposes to adopt the following ordinance that would change the use of land as described below. A public hearing on this proposed ordinance will be held by the City of Kissimmee City Commission to consider the second and final reading of the proposed ordinance on Tuesday, November 7, 2023 at 6:00 p.m., or as soon thereafter as possible, at the Commission Chambers of City Hall, 101 Church Street, Kissimmee, Florida.

PROPOSED ORDINANCE #23-09: AN ORDINANCE AMENDING ORDINANCE NO. 3050 KNOWN AS THE ORDINANCE AMENDING THE COMPREHENSIVE DEVELOPMENT PLAN FOR THE CITY OF KISSIMMEE, FLORIDA, UNDER THE AUTHORITY OF FLORIDA STATUTE 163.3166 DIRECTING THE CITY MANAGER TO AMEND THE COMPREHENSIVE LAND USE PLAN AS HEREIN PROVIDED AFTER THE PASSAGE OF THIS ORDINANCE; PROVIDING FOR A PUBLIC HEARING AS REQUIRED BY LAW; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

FROM: Vacated ROW - County

TO: Commercial General (CG) - City

The subject property is located ROW located at Hillard Isle Rd. & Simpson Rd.

Portion of Parcel ID: 06-25-30-0000-0005-0000

Legal Description:

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

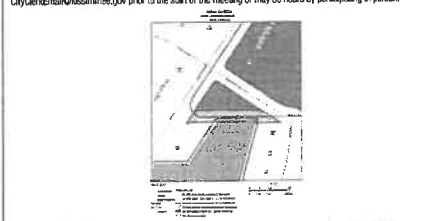
COMMENCING at the Southeast corner of the Northeast 1/4 of the Southwest 1/4 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 0°13'51" West, along the East line of the Northeast 1/4 of the Southwest 1/4 of said Section 8, for a distance of 45.36 feet to a point on the South right of way line of Hillard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 89°14'29" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 89°14'29" West, along said South right of way line, for a distance of 188.06 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a distance of 6.62 feet; thence run South 89°44'59" West for a distance of 76.84 feet; thence run South 87°58'45" West for a distance of 141.43 feet; thence run South 85°07'54" West for a distance of 67.34 feet; thence run South 87°15'41" West for a distance of 38.05 feet; thence run South 77°10'48" West for a distance of 67.46 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeast right of way line of Boggy Creek Road; thence departing said South right of way line, run North 33°50'27" East, along the said Southeast right of way line of Boggy Creek Road, for a distance of 157.77 feet to a point on the North right of way line of said Hillard Isle Road, said point being a point on a curve, concave Northeast, having a radius of 24.01 feet, a chord bearing of South 31°05'18" East and a chord distance of 33.10 feet; thence run Southeast along the said curve through a central angle of 67°07'13" for an arc distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 87°21'58" East for a distance of 78.16 feet; thence run South 88°58'49" East for a distance of 186.47 feet; thence run South 89°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 55°09'33" East for a distance of 36.67 feet to the point of curvature of a curve, concave Northeast, having a radius of 280.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.94 feet; thence run Southeast along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.90 feet to the POINT OF BEGINNING.

Containing 37,474 square feet, or 0.75 acres, more or less.

The purpose of this public hearing is to consider a proposed amendment to Ordinance 3050, known as the Comprehensive Development Plan, which would change The 2025 Future Land Use Map of the Kissimmee Comprehensive Plan.

The proposed amendment and the supporting documents, including a parcel description, may be inspected in the Development Services Department, City Hall, 101 Church Street, Kissimmee, Florida, between 9:00 a.m. and 5:00 p.m., Monday through Friday. Please direct any questions to the Development Services Department, (407) 518-2140 or planning@kissimmee.gov.

Any interested party wishing to be heard on this issue may submit testimony to be read into the official record to CityClerk@kissimmee.gov prior to the start of the meeting or may be heard by participating in person.



Reference MAP# 23-0002
HILLARD ISLE ROW

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 include 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 proceedings should contact the Office of the City Clerk (407) 518-2308 prior to the meeting. (FS286.26)

NOTICE OF PUBLIC HEARING CITY COMMISSION

This is to inform you that the City of Kissimmee City Commission will make a recommendation to the City Commission concerning a request to amend the official Zoning Map, the City of Kissimmee Land Development Code Ordinance No. 3068 for the property described herein:

FROM: Vacated ROW - County

TO: B-2 (Neighborhood Commercial District) - City

The subject property is located ROW located at Hillard Isle Rd. & Simpson Rd.

Portion of Parcel ID: 06-25-30-0000-0005-0000

Legal Description:

A portion of Section 8, Township 25 South, Range 30 East, Osceola County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of the Northeast 1/4 of the Southwest 1/4 of Section 8, Township 25 South, Range 30 East, Osceola County, Florida; thence run South 0°13'51" West, along the East line of the Northeast 1/4 of the Southwest 1/4 of said Section 8, for a distance of 45.36 feet to a point on the South right of way line of Hillard Isle Road, as recorded in County Road Map 1, Pages 118 through 126, inclusive; thence departing said East line, run South 89°14'29" West, along said South right of way line, for a distance of 217.34 feet to the POINT OF BEGINNING; thence continue South 89°14'29" West, along said South right of way line, for a distance of 188.06 feet; thence along said South right of way line the following courses and distances: North 13°33'32" East for a distance of 6.62 feet; thence run South 89°44'59" West for a distance of 76.84 feet; thence run South 87°58'45" West for a distance of 141.43 feet; thence run South 85°07'54" West for a distance of 67.34 feet; thence run South 87°15'41" West for a distance of 38.05 feet; thence run South 77°10'48" West for a distance of 67.46 feet; thence run South 70°37'29" West for a distance of 23.45 feet; thence run South 62°20'20" West for a distance of 23.30 feet to a point on the Southeast right of way line of Boggy Creek Road; thence departing said South right of way line, run North 33°50'27" East, along the said Southeast right of way line of Boggy Creek Road, for a distance of 157.77 feet to a point on the North right of way line of said Hillard Isle Road, said point being a point on a curve, concave Northeast, having a radius of 24.01 feet, a chord bearing of South 31°05'18" East and a chord distance of 33.10 feet; thence run Southeast along the said curve through a central angle of 67°07'13" for an arc distance of 36.51 feet; thence run along said North right of way line the following courses and distances: North 87°21'58" East for a distance of 78.16 feet; thence run South 88°58'49" East for a distance of 186.47 feet; thence run South 89°56'04" East for a distance of 114.21 feet; thence departing said North right of way line, run South 55°09'33" East for a distance of 36.67 feet to the point of curvature of a curve, concave Northeast, having a radius of 280.00 feet, a chord bearing of South 68°29'54" East and a chord distance of 123.94 feet; thence run Southeast along the arc of said curve through a central angle of 24°40'37" for an arc distance of 124.90 feet to the POINT OF BEGINNING.

Containing 37,474 square feet, or 0.75 acres, more or less.

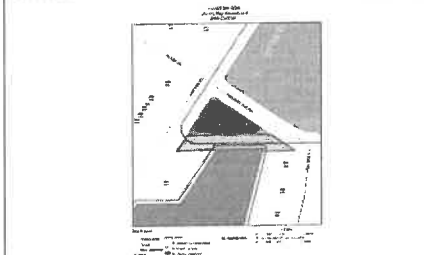
The purpose of this public hearing is to consider a proposed amendment to Ordinance 3068, known as the Zoning Ordinance, which would change the Zoning Map of the City of Kissimmee.

The proposed amendment and the supporting documents, including a parcel description, may be inspected in the Development Services Department, City Hall, 101 Church Street, Kissimmee, Florida, between 9:00 a.m. and 5:00 p.m., Monday through Friday. Please direct any questions to the Development Services Department, (407) 518-2140 or planning@kissimmee.gov.

Any interested party wishing to be heard on this issue may submit testimony to be read into the official record to CityClerk@kissimmee.gov prior to the start of the meeting or may be heard by participating in person.

Reference # ZMA-23-0003

HILLARD ISLE ROW



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 include 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 proceedings should contact the Office of the City Clerk (407) 518-2308 prior to the meeting. (FS286.26)

ITEM 4.D

Public Hearing - Second and Final Reading - Proposed Ordinance # 23-21 - Amending the Police Retirement Plan

AN ORDINANCE OF THE CITY OF KISSIMMEE ,FLORIDA, AMENDING CHAPTER 30, PERSONNEL, ARTICLE III, EMPLOYEE RETIREMENT, DIVISION 4, POLICE OFFICERS' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE; AMENDING SECTION 30-198,DEFINITIONS; AMENDING SECTION 30- 201, FINANCES AND FUND MANAGEMENT, ESTABLISHMENT OF OPERATION OF FUND;AMENDING SECTION 30-213, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 30-228, SUPPLEMENTAL SHARE PLAN RETIREMENT BENEFIT; PROVIDING FOR CODIFICATION; 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 # 23-21 for the Police Retirement Plan.

Explanation

The proposed ordinance #23-21 and the no impact statement from the Plan's Actuary are attached for approval. The Pension Attorney prepared the proposed ordinance and the Actuary indicated that this will not have an actuarial impact on the cost of the Police Retirement Plan.

This proposed ordinance includes minor changes that accomplish the following:

- 1) Amending the definition of salary to better align the language with the Internal Revenue Code.
- 2) Allow for Board discretion on recovering inadvertent overpayments, pursuant to Secure Act 2.0.
- 3) Updating the language with the Internal Revenue Code in the Secure Act 2.0, changing the required distribution date from age 70½ to age 72, the applicable age provided for in the Internal Revenue Code.
- 4) Clarifies language that members who receive a refund of their accumulated contributions will forfeit their distribution of their share allocation and vice versa.

Recommendation

Staff recommends approval.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Human Resources & Risk Management

Presenter: Mike Steigerwald

Attachment(s):

1. Proposed Police Ordinance 23-21
2. No Impact Statement for Proposed Ord 23-21
3. Steigerwald.09-07-23

PROPOSED ORDINANCE NO. 23-21
ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF KISSIMMEE, FLORIDA, AMENDING CHAPTER 30, PERSONNEL, ARTICLE III, EMPLOYEE RETIREMENT, DIVISION 4, POLICE OFFICERS' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE; AMENDING SECTION 30-198, DEFINITIONS; AMENDING SECTION 30-201, FINANCES AND FUND MANAGEMENT, ESTABLISHMENT OF OPERATION OF FUND; AMENDING SECTION 30-213, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 30-228, SUPPLEMENTAL SHARE PLAN RETIREMENT BENEFIT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1: That Chapter 30, Personnel, Article III, Employee Retirement, Division 4, Police Officers' Retirement Plan, of the Code of Ordinances of the City of Kissimmee, is hereby amended by amending Section 30-198, Definitions, by amending the definition of Salary, to read as follows:

* * * * *

Salary.

- (1) The term "salary" means the total compensation for services rendered to the city as a police officer, reported on the member's W-2 form, including overtime, longevity pay and incentive pay, but excluding special assignment and special detail pay, and plus all tax deferred, tax sheltered or tax exempt items of income derived from elective employee payroll deductions or salary reductions lump sum payments of retroactive pay for retroactive pay raises received by a member in connection with a negotiated collective bargaining agreement shall be deemed to be salary earned during the pay period to which the retroactive payments are attributable.
- (2) For service earned after December 3, 2013 (the "effective date"), the term "salary" shall not include more than 300 hours of overtime per calendar year and shall also not include payments for accrued unused sick or annual leave; provided, however, in any event, payments for overtime in excess of 300 hours per year or accrued unused sick or annual leave accrued as of the effective date and attributable to service earned prior to the effective date, may still be included in salary for pension purposes even if the payment is not actually made until on or after the effective date. In any event, with respect to unused sick leave and unused annual leave accrued prior to the effective date, salary will include the lesser of the amount of sick or annual leave time accrued on the effective date or that actual amount of sick or annual leave time for which the retiree receives payment at the time of retirement, regardless of whether the amount of sick or annual leave was, at some time prior to retirement, reduced below the amount on the effective date.

- (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 4, Police Officers' Retirement Plan, of the Code of Ordinances of the City of Kissimmee, is hereby amended by amending Section 30-201, Finances and Fund Management; Establishment and Operation of Fund, subsection (f)(10), to read as follows:

* * * * *

- (10) Any overpayments or underpayments from the fund to a member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board in such a manner that the actuarial equivalent of the benefit to which the member, retiree or beneficiary was correctly entitled shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Notwithstanding the foregoing, the board shall have the discretion to not seek recovery of inadvertent overpayments from benefit recipients or other parties, including the City based on the circumstances of the overpayment, on a case-by-case basis, provided that any such actions are consistent with the provisions of the Secure Act 2.0 applicable to governmental plans with regard to inadvertent benefit overpayments and any applicable guidance subsequently issued by the Treasury and the Internal Revenue Service. Underpayments shall be made up from the fund in a prudent manner.

* * * * *

SECTION 3: That Chapter 30, Personnel, Article III, Employee Retirement, Division 4, Police Officers' Retirement Plan, of the Code of Ordinances of the City of Kissimmee, is hereby amended by amending Section 30-213, Minimum Distribution of Benefits, subsection (b)(1) and subsection (b)(2)a., to read as follows:

* * * * *

(b) (1) *Required Beginning Date.*

a. The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date. ~~For a member who attains age 70.5 prior to January 1, 2020, the member's required beginning date is April 1 of the calendar year following the later of (i) the calendar year in which the member attains age 70.5 or (ii) the calendar year in which the member terminates employment with the City. For a member who attains age 70.5 on or after January 1, 2020, the~~ The member's required beginning date is April 1 of the calendar year following the later of (i) the calendar year in which the member attains the applicable age ~~seventy-two (72)~~ or (ii) the calendar year in which the member terminates employment with the City.

b. *Applicable age.*

1. For a member who attained age 70 ½ before December 31, 2019, the applicable age is 70 ½.

2. For a member who attained age 72 before January 1, 2023, the applicable age is 72.

3. For a member who attains age 72 after December 31, 2022, the applicable age as defined in Code Section 401(a)(9)(C)(v).

* * * * *

(b) (2) a. If the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by a date on or before December 31 of the calendar year in which the member would have attained ~~age 70.5, (or age 72 for a member who would have attained age 70.5 after December 31, 2019)~~ if later the applicable age, as the surviving spouse elects. Effective for calendar years beginning after December 31, 2023, a surviving spouse who is the member's sole designated beneficiary may elect to be treated as if the surviving spouse were the employee as provided under Code Section 401(a)(9)(B)(iv).

* * * * *

SECTION 4: That Chapter 30, Personnel, Article III, Employee Retirement, Division 4, Police Officers' Retirement Plan, of the Code of Ordinances of the City of Kissimmee, is hereby amended by amending Section 30-228, Supplemental Share Plan Retirement Benefit, subsection (3), Distribution of Share Accounts, to read as follows:

* * * * *

(3) *Distribution of share accounts.*

a. A share plan member with ten or more years of credited service upon termination of employment shall, upon retiring from the plan under normal or early retirement, be eligible to receive a distribution of 100

percent of the balance in his share account. No benefit shall be payable to a share plan member who terminates employment with less than ten years of credited service, except as provided below. The share account balances of such non-vested terminated members shall be redistributed among all eligible members' and retirees' share accounts in the same manner as the excess premium tax revenues in the following calendar year. The designated beneficiary of a share plan member who has died shall receive the accumulated total of the member's share account balance, regardless of the member's length of service. A share plan member awarded a disability pension from the pension plan shall receive the accumulated total of his share account balance. There shall be no forfeiture of a member's share account based on the member's death, disability or termination of employment with ten or more years of credited service. Payment of share account benefits shall be by lump sum, which shall consist of the accumulated total balance of the member's share account, or, at the member's direction, the share account balance may be rolled over to another qualified plan in accordance with applicable law. Notwithstanding the above provisions of this subsection, a member who is totally or partially vested in section 30-206, shall not forfeit his share account and, upon termination of service, he shall receive the total balance in his share account in the same manner as provided above. If the member receives payment of the value of his share account balance in accordance with this subsection, the member is no longer entitled to receive a refund of his accumulated contributions. If the member receives a refund of his accumulated contributions, he shall forfeit his share account balance.

- b. All share distributions shall be made at the end of the quarter in which the member dies or terminates employment and the distribution shall equal the share account balance as of the close of the immediately preceding calendar year, plus investment earnings or losses through the end of the quarter immediately preceding the quarter in which the member dies or terminates employment, payable as soon as administratively possible following the end of the quarter.

* * * * *

SECTION 5: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Kissimmee.

SECTION 6: If any section, subsection, sentence, clause or 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: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 8: That this Ordinance shall become effective upon its adoption.

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

AFFIDAVIT OF PUBLICATION

Osceola News-Gazette
222 Church Street
(407) 846-7600

I, Stefan Edward Pla, of lawful age, being duly sworn upon oath depose and say that I am an agent of Column Software, PBC, duly appointed and authorized agent of the Publisher 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:

Oct. 12, 2023

Notice ID: ZvYzoF7sn3jZAXaEuf1P

Notice Name: ORDINANCE #23-21 - Police Pension Amendment

PUBLICATION FEE: \$78.19

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true,

Stefan Pla

Agent

VERIFICATION

State of Florida
County of Charlotte

Signed or attested before me on this: 10/16/2023

Rachael Mary Schultz

Notary Public
Notarized online using audio-video communication

**NOTICE OF PUBLIC HEARING
AND SECOND READING**

The City Commission of the City of Kissimmee, Florida will meet on **Tuesday, October 17, 2023, 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 7, 2023, 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.

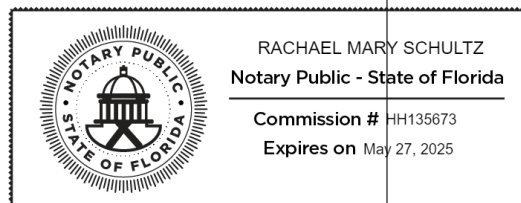
PROPOSED ORDINANCE # 23-21

AN ORDINANCE OF THE CITY OF KISSIMMEE, FLORIDA, AMENDING CHAPTER 30, PERSONNEL, ARTICLE III, EMPLOYEE RETIREMENT, DIVISION 4, POLICE OFFICERS' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE; AMENDING SECTION 30-198, DEFINITIONS; AMENDING SECTION 30-201, FINANCES AND FUND MANAGEMENT, ESTABLISHMENT OF OPERATION OF FUND; AMENDING SECTION 30-213, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 30-228, SUPPLEMENTAL SHARE PLAN RETIREMENT BENEFIT; PROVIDING FOR CODIFICATION; 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 12, 2023



August 18, 2023

VIA EMAIL

Board of Trustees
City of Kissimmee
Police Officers' Pension Board

Re: City of Kissimmee Municipal Police Officers' Retirement Fund

Dear Board:

We have reviewed the proposed Ordinance, identified on page 5 as "dm/kiss/pol/05-19-23.ord", providing for the following changes. We have determined that the adoption of the proposed changes will have no impact on the assumptions used in determining the funding requirements of the program.

1. Definition of Salary amended to better align language with the Internal Revenue Code.
2. Allow for Board discretion on seeking recovery of inadvertent overpayments from the Fund.
3. Change the required distribution age from age 70 ½ to age 72.
4. Clarify that members who receive a refund of member contributions are ineligible for a share plan distribution, and vice versa.

Because the above changes do not result in an immediate change in the valuation results, it is our opinion that a formal Actuarial Impact Statement is not required in support of its adoption. However, since the Division of Retirement must be aware of the current provisions of all public pension programs, it is recommended that you send a copy of this letter and a copy of the fully executed Ordinance to the following office:

Mr. Keith Brinkman
Bureau of Local Retirement Systems
Division of Retirement
P. O. Box 9000
Tallahassee, FL 32315-9000

Mr. Steve Bardin
Municipal Police and Fire
Pension Trust Funds
Division of Retirement
P.O. Box 3010
Tallahassee, FL 32315-3010

If you have any questions, please let me know.

Sincerely,



Douglas H. Lozen, EA, MAAA

Cc via email: Scott Christiansen, Plan Attorney

Law Offices
Christiansen & Dehner, P.A.

Scott R. Christiansen

63 Sarasota Center Blvd. Suite 106
Sarasota, Florida 34240
941-377-2200
Fax 941-377-4848

H. Lee Dehner
(1952-2019)

September 7, 2023

Via E-Mail: Mike.Steigerwald@Kissimmee.gov

Mr. Mike Steigerwald, City Manager
City of Kissimmee
101 Church Street
Kissimmee, Florida 34741-5054

Re: City of Kissimmee Municipal Police Officers' Retirement Plan

Dear Mr. Steigerwald:

As you know, I represent the Board of Trustees of the Kissimmee Municipal Police Officers' Retirement Plan. Attached please find a proposed ordinance amending the City of Kissimmee Municipal Police Officers' Retirement Plan which is recommended by the Board for adoption by the City Commission. The following changes are proposed:

1. Section 30-198, Definitions, is being amended to amend the definition of Salary to add necessary language to clarify the determination period for maximum annual compensation for members who leave the service of the City who have completed less than 12 months of service during a fiscal year. This change is provided for in the Internal Revenue Code and its associated Treasury Regulations.
2. Section 30-201, Finances and Fund Management, is being amended to provide language regarding Board discretion on seeking recovery of inadvertent overpayments from the Fund, as permitted by recently adopted Secure Act 2.0.
3. Section 30-213, Minimum Distribution of Benefits, is being amended to provide for recent changes to the Internal Revenue Code in the Secure Act 2.0, changing the required distribution date from age 72 to the applicable age provided for in the IRC, as amended from time to time.

4. Section 30-228, Supplemental Share Plan Retirement Benefit is being amended to clarify and confirm that:
 - A. If the member receives the balance of his share account provided for in the plan, he is no longer entitled to receive a refund of his accumulated contributions; and
 - B. If the member receives a refund of his accumulated contributions, he shall forfeit his share account balance.

I have attached a letter from the Board's actuary, Foster & Foster, Inc., indicating that there is no cost associated with the adoption of this ordinance.

If you have any questions regarding the enclosed, please feel free to give me a call.

Yours very truly,



Scott R. Christiansen

SRC/dm
enclosures

E-copy: Doug Lozen, with enclosures
Linda Gomez, with enclosures

ITEM 7.A**Approval of City Commission Minutes from the October 17, 2023 meeting****Request**

Request Commission approval of the October 17, 2023 Commission Minutes.

Explanation

Minutes of the Commission meeting held on October 17, 2023 are attached for approval.

Recommendation

Staff recommends Commission approval.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: City Commission

Presenter:

Attachment(s):

1. (S) - City Commission Meeting Minutes - October 17, 2023



**MEETING MINUTES
SESSION OF THE CITY COMMISSION
CITY OF KISSIMMEE
CITY HALL, COMMISSION CHAMBERS
101 CHURCH STREET, KISSIMMEE, FLORIDA 34741-5054
TUESDAY, OCTOBER 17, 2023 AT 6:00 PM**

1. MEETING CALLED TO ORDER

Members Present: Mayor Olga Gonzalez, Commissioners Olga Castano, Angela Eady, Carlos Alvarez, III, Janette Martinez

Staff Present: City Manager Mike Steigerwald, City Attorney Olga Sanchez de Fuentes, Deputy City Manager Desiree Matthews, Assistant City Manager Austin Blake, Deputy City Clerk Tameara Crespo

Members Absent: City Clerk Linda Hansell

Mayor Gonzalez called the meeting to order at 6:00 PM.

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

After a Moment of Silence, Commissioner Alvarez led the audience in the Pledge of Allegiance.

3. PROCLAMATIONS AND SPECIAL PRESENTATIONS

3.A Presentation of Citizen Appreciation Award to Arden Gilbert

Presentation of the Citizen Appreciation Award to Arden Gilbert.

Mr. Gilbert could not be in attendance tonight, he will receive his award at a later date.

3.B Proclamation - World Polio Day

The request is for the Commission to present a proclamation to Wilda Belisle, President of the Rotary Club of Kissimmee West.

City Manager Steigerwald read a proclamation in honor of World Polio Day as the Mayor and Commissioners presented the proclamation to Wilda Belisle.

Ms. Belisle thanked the City for the recognition and announced a "Polio Awareness Walk" is being held on October 24th at Kissimmee Lakefront and invited the community to participate.

3.C Proclamation - National Fire Prevention Week

The request is for the Commission to present a Proclamation to Fire Chief Jim Walls.

City Manager Steigerwald read a proclamation in honor of National Fire Prevention Week as the Mayor and Commissioners presented the proclamation to Deputy Fire Chief Joe Leone. Deputy Chief Leone thanked the Commission for the recognition.

3.D Service Awards for July, August and September

The City Commission joins the City Manager in recognizing employees who have reached milestones in years of service.

City Manager Steigerwald presented quarterly service awards to the following employees who were present:

5 Years: Elizabeth Acevedo, Bonnie Bell, Ulises Jimenez

10 Years: Megan Bezold, Justin Lunsford, Darlene Roucoulet
15 Years: Margareth Henao
25 Years: Camille Alicea, Kristy Strobl

The following employees who were unable to attend will be provided their Service Award at a later date: 5 Years: Brian Lopez Arroyo, Katiria Matos, Joshua Mila Ortiz, Carlos Otero Fosse, Genesis Rodriguez, Leopoldo Roman, Barabara, Tim Vanduser; 15 Years: Jerrol Duncan; 20 Years: Julio Cabezas, Kevin Palmer, Stacy Zamfir; and 25 Years: Brian Clyde.

3.E Promotion Ceremony for Police Captains and Lieutenants

Swearing in and administering of oath for newly promoted Police Captain Ian M. Downing, Captain Michael D. Tilton, Lieutenant Charles R. Willdigg, and Lieutenant Jeinly I. Ortiz.

Police Chief Betty Holland administered the Oath of Office to Captain Ian M. Downing, Captain Michael D. Tilton, Lieutenant Charles R. Willdigg, and Lieutenant Jeinly I. Ortiz. They were each surrounded by friends and family during the ceremonies.

4. PUBLIC HEARINGS - FIRST AND SECOND READINGS

4.A Public Hearing - First Reading - Proposed Ordinance # 23-21 - Amending the Police Retirement Plan

AN ORDINANCE OF THE CITY OF KISSIMMEE, FLORIDA, AMENDING CHAPTER 30, PERSONNEL, ARTICLE III, EMPLOYEE RETIREMENT, DIVISION 4, POLICE OFFICERS' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE; AMENDING SECTION 30-198, DEFINITIONS; AMENDING SECTION 30-201, FINANCES AND FUND MANAGEMENT, ESTABLISHMENT OF OPERATION OF FUND; AMENDING SECTION 30-213, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 30-228, SUPPLEMENTAL SHARE PLAN RETIREMENT BENEFIT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

Approval of the First Reading of the Proposed Ordinance #23-21 for the Police Retirement Plan.

City Attorney Sanchez de Fuentes read Proposed Ordinance #23-21 by title.

Mayor Gonzalez announced the Public Hearing with no response from the audience.

City Manager Steigerwald reviewed minor changes to the proposed ordinance which included maintaining compliance with the Internal Revenue Code, the Secure Act, and federal requirements regarding pension plans. The actuary reviewed the ordinance with no financial impact being noted. Staff recommends approval after holding the Public Hearing.

Commissioner Castano made a motion to approve the Public Hearing and the First Reading of Proposed Ordinance #23-21. Commissioner Eady seconded the motion.

AYE: Mayor-Commissioner Gonzalez, Commissioner Alvarez, Commissioner Castano, Commissioner Eady, Commissioner Martinez

NAY: None

Motion carried 5 - 0

5. PUBLIC HEARINGS

6. HEAR AUDIENCE

Ted Baker, 806 Person Street, Kissimmee, FL addressed the commission on various concerns including pot holes on Hill and Person Street, the need for "Children at Play" signage, consideration of speed bumps and requested maintenance on the pedestrian bridges near Oak Street Park. City Manager Steigerwald provided an update at the request of Commissioner Eady and stated that the potholes were addressed last week. If any were overlooked, the Public Works Department will reassess the roads to ensure they are all fixed. He further indicated that the requested signage is already being evaluated. The City Manager recalled the latest study showed there was not a need for speed bumps on Hill or Person Street, but staff will review the study again to be certain. Parks and Recreation is currently looking into replacing the bridges over Emory Canal and they plan to advance funding quickly to prioritize one of the two bridges, so residents can easily access Oak Street Park.

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.

Prior to the vote, City Manager Steigerwald made a minor revision to item 7.H, project numbers which were incorrectly listed on the fiscal table of the item. The corrected project numbers were placed on the dais for Commission review, attached as Exhibit "A".

Commissioner Martinez made a motion to approve the consent agenda in it's entirety. Commissioner Castano seconded the motion.

Motion carried 5 - 0.

7.A Approval of City Commission Minutes from the September 26, 2023 and October 3, 2023 meetings

Request Commission approval of the September 26, 2023 and October 3, 2023 Commission Minutes.

7.B Edward Byrne Memorial Justice Assistance Grant Program FY2023

Accept the Edward Byrne Memorial Justice Assistance Grant Funding on behalf of Kissimmee Police Department and authorize the City Manager to execute any documents required to accept the award.

7.C Dillingham Apartments - Final Plat (DRC# SR-22-0021)

Approval of the final plat known as Dillingham Apartments.

7.D Freedom Land Christian Academy Replat 1 - Final Plat (DRC# SR-23-0006)

Approval of the final plat known as Freedom Land Christian Academy Replat 1.

7.E Authorization to purchase the annual city vehicle requirements from the State Contract, Sheriff's Contract, Cooperative Purchasing Contracts or the City's Local Bid

This request is for authorization to purchase the FY 2023-24 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.

7.F Purchase of Vacant Land Contract - 50 Lakeview Drive

Staff requests the approval of this Vacant Land Contract between the sellers of 50 Lakeview Drive and the City of Kissimmee.

7.G Advertising Funding from Experience Kissimmee for Kissimmee Gateway Airport

Request Commission approval to accept advertising funding in the amount of \$30,000.00 from Experience Kissimmee for the Kissimmee Gateway Airport.

7.H Request transfer of funds from Airport Reserves to purchase maintenance equipment

Request Commission approval to transfer additional funds of \$30,700 from Airport Reserves to purchase maintenance equipment allocated in FY 24 under AP2402 and AP2403.

7.I Accept a 2022-23 Land and Water Conservation Fund Program Grant from the Florida Department of Environmental Protection for Kissimmee Lakefront Park

Accept the 2022-23 Land and Water Conservation Fund Program (LWCF) grant in the amount of \$200,000 to support renovations at the Kissimmee Lakefront Park and authorize the City Manager to sign documents related to the proper administration of this grant.

7.J Approval to submit a 2023 Florida Recreational Development Assistance Program Grant for Toho Marina at Kissimmee Lakefront Park

Approval to submit a 2023 Florida Recreational Development Assistance Program (FRDAP) grant in the amount of \$50,000 to fund the renovations to the breakwater at Toho Marina at Kissimmee Lakefront Park.

7.K Request additional funds to purchase replacement vehicle AP31 from Airport Reserves

Request Commission approval for additional funds of \$5,900.00 from Airport Reserves to purchase a replacement vehicle for AP31 damaged during Hurricane Ian.

7.L Resurfacing Change Order No.1 to add Dyer Boulevard Phase II to Asphalt Paving Systems Current Scope of Work

Commission approval of change order no.1 for the resurfacing of Dyer Boulevard Phase II to increase the amount to \$569,901.28.

8. DISCUSSION ITEMS

8.A Presentation of Financial Statements for the Kissimmee Charter School for the year ended June 30, 2023

This request is for Commission acceptance of the Financial Statements for the Kissimmee Charter School for the fiscal year ended June 30, 2023.

Imagine Charter School representative Greg Young provided an update and reviewed the comprehensive financial statement and audit report attached to the agenda. The audit did not indicate any deficiency in internal controls, nor did it detect any areas of non-compliance. Staff is recommending approval of the financial statement as presented.

Commissioner Castano made a motion to approve the fiscal year end financial statement for the Kissimmee Charter School. Commissioner Martinez seconded the motion.

Motion carried 5 - 0.

8.B The Haven on Vine Update - Project Next Steps

Staff will update the Commission on the project and seek Commission Approval to proceed with the next steps for the project.

Deputy City Manager Desiree Matthews made a PowerPoint presentation (Exhibit "B"). She provided a detailed overview of the Haven on Vine project which was broken down into two phases and discussed at length relating to the property acquisition, future renovation plans, funding sources used, and included federal dollar requirements needed to maintain compliance. Deputy City Manager Matthews reviewed the proposed application and selection process for residents, minimum residency requirements including criminal history and what would and would not be considered, referral services, protocol to assist current tenants, and a recap of the statistics on homelessness in Osceola County. The City of Kissimmee supports the need for affordable housing to combat homelessness.

Deputy City Manager Matthews requested Commission direction on the next steps for property management services for the facility. A proposal of two possible options were presented for Commission consideration. First option, City solicit property management services from a third party non-profit organization through the procurement process and for onsite property management. Second option, City hire additional full-time employees to manage the property "in-house".

The Commission and Deputy City Manager engaged in discussions relating to budget allocations, cold night weather congregate rooms, procedures for undocumented individuals, and the pros and cons of outsourcing property management services versus providing the management services in-house.

Deputy City Manager Matthews expressed her gratitude for the City employee's who have spent countless hours managing this project, including: Robert Masiku, Assistant Director of PW&E, Facilities Supervisor, Javier Romero, Housing and Community Development Manager, Frances DeJesus and Front Office Coordinator, Eugenio Morales. She also thanked Assistant City Manager Austin Blake and the Kissimmee Police Department for their efforts in keeping the property secure and safe.

Commissioner Martinez requested the Commission meet her on the floor to present tokens of appreciation to the employees involved in the project.

Mayor Gonzalez expressed her gratitude to City staff and is proud to be part of a historical project of this magnitude during her tenure.

Commissioner Martinez made a motion for the City to manage the property utilizing in-house employees. Commissioner Castano seconded the motion.

Motion carried 5-0.

8.C Approval of Amended Legislative Priorities for 2024

Staff requests Commission approval of the amended Legislative Priorities for 2024

City Manager Steigerwald reviewed the amended Legislative Priorities for 2024 as attached to the agenda and stated staff recommends approval.

Commissioner Castano made a motion to approve the amended legislative priorities for 2024. Commissioner Martinez seconded the motion.

Motion carried 5 - 0.

**CITY COMMISSION RECESSES AND CONVENES AS THE COMMUNITY
REDEVELOPMENT AGENCY BOARD**

8.D Purchase of Vacant Land Contract - 50 Lakeview Drive

Approval of the Vacant Land Contract between the Sellers and City of Kissimmee for the purchase of 50 Lakeview Drive

Economic Development Director Tom Tomerlin explained that this item is a companion to Item 7.F on the Consent Agenda and a separate vote is required since a portion of the funding is coming out of the Downtown Kissimmee CRA Budget.

Board Member Martinez made a motion to approve the Downtown Kissimmee CRA funding portion of the contract funding. Board Member Castano seconded the motion.

Motion carried 5 - 0.

**COMMUNITY REDEVELOPMENT AGENCY BOARD ADJOURNS AND
RECONVENES AS THE CITY COMMISSION**

9. HEAR CITY OFFICIALS

9.A CITY MANAGER

City Manager Steigerwald reminded the Commission of the Ribbon Cutting for the Mosaic Apartments on Friday, October 20, 2023. He thanked his staff for all the effort they've invested with the the Haven on Vine project.

9.B CITY ATTORNEY

9.C CITY COMMISSION

Commissioner Castano, Commissioner Martinez and Mayor Gonzalez all announced their excitement and sincere gratitude for all the effort that went into making the Haven on Vine project possible.

10. ADJOURNMENT

There being no further business to come before the Commission, Mayor Gonzalez adjourned the meeting at 7:28 PM.

MAYOR-COMMISSIONER

ATTEST:

CITY CLERK

Exhibit "A"
Item 7.H.- Amended Project Numbers

ITEM 7.H

Request transfer of funds from Airport Reserves to purchase maintenance equipment

Request

Request Commission approval to transfer additional funds of \$30,700 from Airport Reserves to purchase maintenance equipment allocated in FY 24 under AP2402 and AP2403.

Explanation

The Airport budget for 2024 includes funding for two projects; 1) \$8,200 in project #AP2402 for a tractor mowing attachment, and 2) \$105,000 in project #AP2403 for a replacement tractor. The budget originally included funding to replace an existing 8-foot mowing attachment. However, after re-evaluation by airfield maintenance staff, it is recommended that the Airport upgrade its fleet to a second 15-foot batwing mowing attachment. This would allow a more efficient use of airport maintenance staff, who not only must mow several hundred acres of the airfield year round but must also maintain other airfield components including runways, taxiways, pavement markings, signage and lighting. The state contract price for the batwing tractor attachment is \$27,413.20, leaving a shortfall of \$19,213.20 in project AP2402. In addition, the state contract price for the tractor is now \$116,345.36 due to inflationary cost increases since the budget was prepared, leaving a shortfall of \$11,345.36 in project AP2403.

As a result, in order to proceed with the purchase of these two necessary replacement items, Staff is requesting that a total of \$30,700.00 be transferred from Airport Reserves to cover the funding for both projects.

Financial Information

Corrected Project Numbers

Account #	Project #	Increase / Decrease	Budget	Actual
46170100-509276		Decrease	30,700	
46170106-506495	AP2402	Increase	19,300	
46170106-506495	AP2403	Increase	11,400	

Financial Summary:

Additional funds from Airport Reserves are necessary due to inflation.

Recommendation

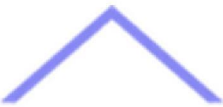
Staff recommends the Commission approve transferring additional funds of \$30,700 from Airport Reserves to purchase maintenance equipment allocated in FY 24 under AP2402 and AP2403.

REQUESTED CITY COMMISSION ACTION:

Approve

City of Kissimmee

Exhibit "B"
Item 8.B.
The Haven on Vine Update - Project Next Steps
Deputy City Manager Presentation



THE HAVEN

on vine

2023 PROJECT UPDATE



Why ...

For many years, the City of Kissimmee City Commission has prioritized identifying a comprehensive, sustainable, and long-term plan to address homelessness.

The challenge was identifying the right strategy, property, and funding sources to realize their vision...

Homelessness ends with housing!



Challenges... old and new

- Growing population of homeless in Osceola County
 - Unsheltered homelessness increased 67% since 2019
 - 182 unsheltered/ 176 sheltered (based on 2023 PIT count)
- Growing diversity of the homeless population
 - Chronic, family, veteran, unaccompanied youth, seniors
- Lack of dedicated funding to address ongoing services and the comprehensive needs of this population
- A system with challenges in coordinating services

Not a challenge Kissimmee can solve alone... we need community partners!

How ...

On June 13, 2023, all the pieces came together, and the City of Kissimmee purchased the Super 8 Motel that is now known as The Haven on Vine.

This first-of-its-kind community within Central Florida will provide stable affordable housing, critical supportive services, and opportunities for housing to those unsheltered and at risk of homelessness in Osceola County.

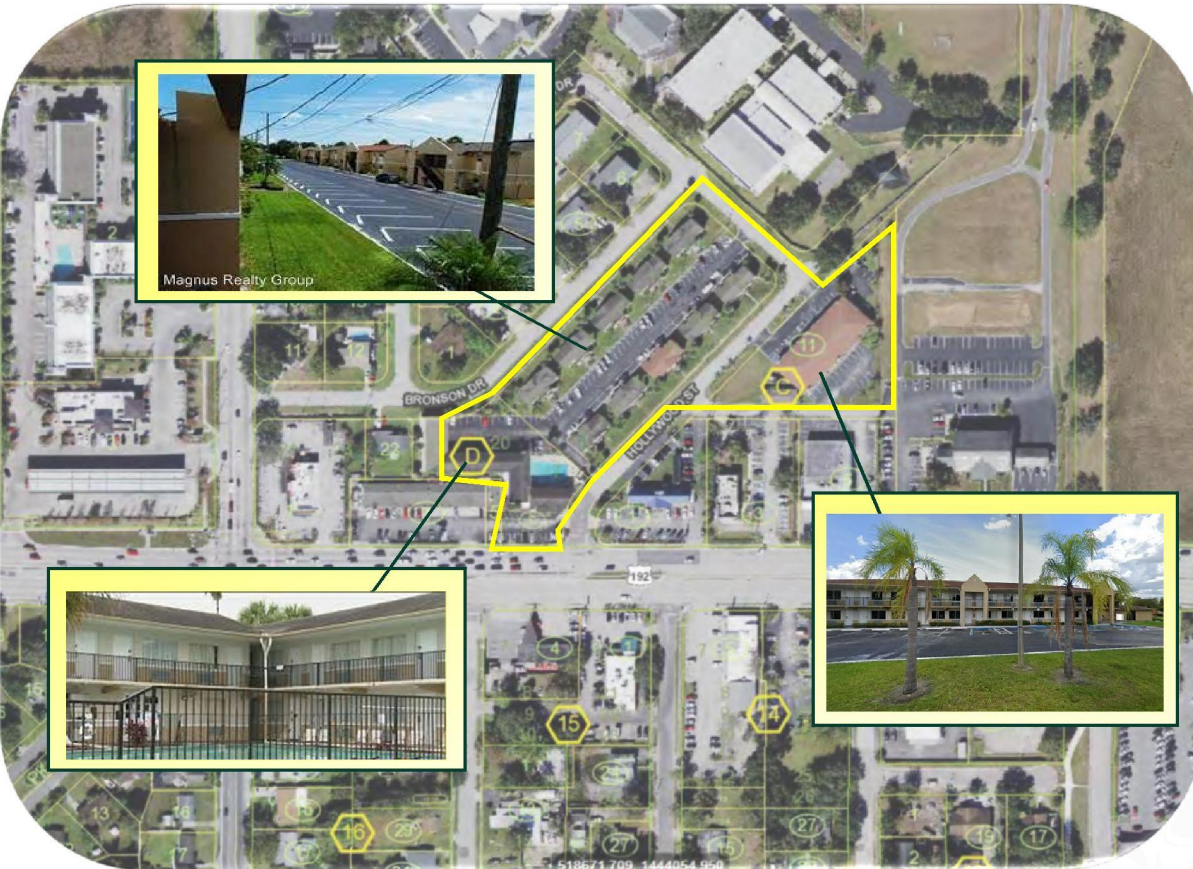
Ha·ven

/ˈhāv(ə)n/

1. A place of safety or refuge
2. A place where people feel safe, secure and happy



What is the Haven on Vine?



123 - unit motel and multifamily property



Located at 1815 W. Vine Street and 1551 Hollywood Street



Frontage on Vine Street



Access to public transportation



Access to retail and services



Built in the 70's – Will need to be brought up to code in several areas



= Tons of Potential

Our Vision for The HAVEN

(Phase 1)

Mixed-income community with a mix of affordable rents that will successfully stabilize households and increase housing availability in our community

- Onsite Management and access to non-emergency on-site services
- Public-Private Partnerships
 - Housing Counseling
 - Workforce Development
 - Access to Health Programs
 - Education and Training Programs

(Phase 2)

- 24/7/365 Emergency Services and Housing-Focused Emergency Housing Program that moves unsheltered people from homelessness to housing.
 - Bridge Housing
 - Navigation Services and Case management
 - Emergency Services Coordination
 - Service Provider Coordination and integration

Must be SUSTAINABLE....If we build it, they will come...

Current activities

- Approved for purchase and closed on property- June 2023
- Completed funding for acquisition \$12,000,000

City of Kissimmee American Rescue Funds	\$6,853,368
City of Kissimmee CDBG Programs	\$1,570,514
City of Kissimmee HOME Funds	\$576,117
Osceola County Government	\$3,000,000

- Activities for Uniform Relocation Assistance Underway
 - Income Qualified tenants who choose to stay will be given new leases
 - Nonqualified tenants will receive relocation assistance

Phase 1- Housing Affordability

Based on the Area Median Income (AMI) percentages and income bands defined by HUD.

The FY 2024 Orlando-Kissimmee-Sanford, FL MSA FMRs for All Bedroom Sizes

Final FY 2024 & Final FY 2023 FMRs By Unit Bedrooms					
Year	Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
FY 2024 FMR	\$1,558	\$1,638	\$1,857	\$2,362	\$2,849
<u>FY 2023 FMR</u>	\$1,338	\$1,422	\$1,616	\$2,064	\$2,503

Osceola County, FL is part of the Orlando-Kissimmee-Sanford, FL MSA, which consists of the following counties: Lake County, FL; Orange County, FL; Osceola County, FL; and Seminole County, FL. All information here applies to the entirety of the Orlando-Kissimmee-Sanford, FL MSA.

HUD release: 5/15/2023

Effective: 5/15/2023

Implement on/before: 6/28/2023

2023 Income Limits and Rent Limits Florida Housing Finance Corporation Multifamily Rental Programs and CWHIP Homeownership Program

County (Metro)	Percentage Category	Income Limit by Number of Persons in Household										Rent Limit by Number of Bedrooms in Unit					
		1	2	3	4	5	6	7	8	9	10	0	1	2	3	4	5
Osceola County (Orlando-Kissimmee-Sanford MSA)	20%	12,300	14,060	15,820	17,560	18,980	20,380	21,780	23,180	24,584	25,989	307	329	395	456	509	562
	25%	15,375	17,575	19,775	21,950	23,725	25,475	27,225	28,975	30,730	32,486	384	411	494	570	636	702
	28%	17,220	19,684	22,148	24,584	26,572	28,532	30,492	32,452	34,418	36,384	430	461	553	639	713	786
	30%	18,450	21,090	23,730	26,340	28,470	30,570	32,670	34,770	36,876	38,983	461	494	593	685	764	843
	33%	20,295	23,199	26,103	28,974	31,317	33,627	35,937	38,247	40,564	42,882	507	543	652	753	840	927
	35%	21,525	24,605	27,685	30,730	33,215	35,665	38,115	40,565	43,022	45,480	538	576	692	799	891	983
	40%	24,600	28,120	31,640	35,120	37,960	40,760	43,560	46,360	49,168	51,978	615	659	791	913	1,019	1,124
	45%	27,675	31,635	35,595	39,510	42,705	45,855	49,005	52,155	55,314	58,475	691	741	889	1,027	1,146	1,264
	50%	30,750	35,150	39,550	43,900	47,450	50,950	54,450	57,950	61,460	64,972	768	823	988	1,141	1,273	1,405
	60%	36,900	42,180	47,460	52,680	56,940	61,140	65,340	69,540	73,752	77,966	922	988	1,186	1,370	1,528	1,686
	70%	43,050	49,210	55,370	61,460	66,430	71,330	76,230	81,130	86,044	90,961	1,076	1,153	1,384	1,598	1,783	1,967
	80%	49,200	56,240	63,280	70,240	75,920	81,520	87,120	92,720	98,336	103,955	1,230	1,318	1,582	1,827	2,038	2,248
	120%	73,800	84,360	94,920	105,360	113,880	122,280	130,680	139,080	147,504	155,933	1,845	1,977	2,373	2,740	3,057	3,372
	140%	86,100	98,420	110,740	122,920	132,860	142,660	152,460	162,260	172,088	181,922	2,152	2,306	2,768	3,197	3,566	3,934
Median: 85,700																	

Table for illustrative purposes only

Phase 1:



Develop An Apartment Community

Affordable Housing Creation

- 40 motel rooms
- Renovate to studio apartments with kitchenettes, a full bathroom and planned living space
- 40 2 bed/1bath
- Complete renovations necessary to remaining 2bed/1bath units
- Convert from market rate to affordable

Sample Budget- Phase 1

Rent:			# Units	Monthly Rent
2023/24 FMR (AMI rents % based on 2023)				\$1338/\$1558
50%	Studio		8	\$ 768
60%	Studio		25	\$ 922
80%	Studio		7	\$ 1,230
23/24 FMR				\$1616/\$1857
50%	Two Bedroom		5	\$ 988
60%	Two Bedroom		25	\$ 1,186
80%	Two Bedroom		10	\$ 1,582
Total Units			80	
Gross Rent				

80 Units	
Potential Annual Rental Revenue	\$1M
Potential Annual Expenses	\$800k
20% reserves	\$200K

After 2026, excess reserves will transfer annually to fund The Haven Resource Center and Emergency Housing Program (Phase 2).

Pathways Forward...Phase 1

Several paths...all will lead to life-changing opportunities.

80 units of affordable housing (Lease)

- HUD Approvals- Mid-Nov
 - HUD funding approvals to draw down funds to complete the acquisition
- Renovations – (\$500k budget from State funding)
 - Major capital improvements include the following:
 - Installation of Sprinkler System, Electrical and Plumbing Upgrades
 - Complete Apartment Renovations
 - Install Kitchenettes in Studios
 - ADA renovations as required
- Finalize Property Management Direction
 - Showing and leasing apartments
 - Collecting rent and tenant payment compliance
 - Oversee tenant conflict and issues
 - Establishing occupancy policies and other building rules
 - Overseeing short- and long-term maintenance, including contracting with third-party contractors for repairs
 - Operate within the proposed budget and pay all operating expenses
 - Generating necessary reports for the owner, and others as required by any and all legal documents affecting the property
 - Ensure compliance with affordable housing restrictions and fair housing laws.
 - Coordinate resident services and service providers for on-site activity- housing counseling, program referrals
 - Fees may range 8%-12% (\$80,000-\$120,000)
- Completion Date: Anticipated March 2023

The Haven – our future tenants

PHASE 1

Placement Priorities:

- Homeless
- Families with minor children
- Veterans
- People with disabilities
- Seniors and Unaccompanied youth
- Domestic Violence Program Participants
- Workforce Development Program Participants

Requirements and considerations

- 1) 1-year Osceola County prior residency
- 2) Income and Security Deposits
- 3) Previous evictions not automatic disqualification
- 4) Criminal history not automatic disqualification

Resident Selection Process

What's required: Initial screening, application, interview, income certification and annual recertification required for lease

Direct Referrals:

- Coordinated Entry; Housing Subsidy Voucher Programs; Rapid Rehousing Programs
- Haven Resource Provider
- City of Kissimmee and Osceola County Housing Division Programs...ie Rental Assistance

Indirect Referrals:

- Waitlist Development

All processes will be in compliance with Fair Housing Laws

Phase 2: 40 Units of Emergency/Bridge Housing

The intent of this portion of the development is to provide 24/7/365 *housing focused* emergency/bridge housing and supportive services to persons experiencing homelessness.

This project must work to ensure that people do not see this housing as a place to stay indefinitely and ensure stays are short-term with a rapid return to permanent housing, while meeting other basic needs. The goal of this approach is to assist our community in transforming decentralized homeless services into a crisis response system that rapidly returns people who experience homelessness to stable housing and self-sufficiency.

There are many partners in this space, and we support their efforts.

A non-profit provider will be selected through a formal bid process to manage and operate this portion of the project. A budget will be developed in conjunction with the selected partner.

Anticipated opening: Fall of 2024

Awaiting funding notification through Community Project Funding Program - \$1.8M

Affordable Housing Participation Summary

Completed

- Vineland Landings - 300 units
- Single family home construction homeownership/ rental - 5 units
- Oak leaf Landing – Affordable housing preservation -50 units

Underway

- Dillingham Apartments - 38 units (under construction)
- Buen Vecino - 60 units (in development)
- Pinnacle at the Wesleyan - 96 units (in development)
- Rosewood Point - 192 units (in development)

Questions?



ITEM 7.B

Purchase of Compact Rapid Deployable (CRD) Communications Device

Request

Approval to purchase a Compact Rapid Deployable (CRD) communications device for redundant mission critical communications.

Explanation

The Police and Fire Departments rely heavily on modern communications devices and technologies to ensure full operational readiness and effectively respond to any natural or manmade event. Additionally, other mission critical functions that support the city's operations also rely on fast, secure, and reliable communications with outside systems.

To better prepare the City of Kissimmee, the use of a Compact Rapid Deployable (CRD) communications device would provide multiple forms of redundant satellite and cellular data backhaul to support mission critical communications and activities. Additionally, a CRD provides first responders with a completely standalone cellular tower to ensure mobile computers, cell phones, and enhanced push-to-talk functions are capable of operating in the event of an outage. Additionally, the CRD can be deployed during pre-planned events to provide supplemental coverage to first responders to ensure voice and data communications stay active and are not impacted by large crowds that can easily impact and overload a single cellular tower during an event with several thousand attendees.

The CRD is also capable of being deployed during blue sky conditions to provide data backhaul to City facilities in the event the data connection to the facility is lost due to a planned or unplanned data outage.

The purchase of the CRD is being considered a sole-source purchase due to restrictions and licensing requirements of the FirstNet Authority, an independent agency within the U.S. Department of Commerce's National Telecommunications and Information Administration (NITA). FirstNet has legally licensed the use of the Band 14 spectrum to first responder communication devices.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
56060106-506494	CM2321	Decrease	\$54,860	
00110706-506494	CM2321	Increase	\$54,860	
00110706-506494	CM2321		\$116,289	\$87,202.98

Financial Summary:

The purchase of the CRD is fully funded through project CM2321 which includes funding strings from two different City funds. As part of this purchase request, staff is requesting the approval of a budget

transfer and amendment that moves all allocated funds in the project out of the Central Services Fund and into the General Fund project string to cover the CRD, training, and service fees.

Recommendation

Approval to complete necessary budget adjustments and transfers for CM2321, and purchase a Compact Rapid Deployable (CRD) communications device from FirstNet for \$87,202.98.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: City Manager

Presenter:

Attachment(s):

1. FirstNet Compact Rapid Deployable Quote

QUOTE

Created Date	10/27/2023	Quote Name	Q-100979-488
Expiration Date	11/27/2023	Account Number	100979

Customer Information

Company Name	City of Kissimmee	Ship To	101 Church Street
Contact Name	Austin Blake		Kissimmee, FL 34741

FirstNet Information

Sales Rep	John Fondacaro
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Product Code	Product	Sales Price	Quantity	Total Price
MA-MC400-1200M-B	Cradlepoint Secondary Modem - for CRD/SatRunner	\$708.00	1.00	\$708.00
PR-MSP	CRD Maintenance & Support	\$3,999.99	1.00	\$3,999.99
PR-TRAIN	CRD On-site Training	\$4,499.99	1.00	\$4,499.99
PR-SAT-FN	CRD™ for FirstNet®	\$77,995.00	1.00	\$77,995.00

For questions, contact the Rescue 42 CRD™ Sales Team:
 888-427-3728 or CRD@rescue42.com.

Subtotal	\$87,202.98
Grand Total	\$87,202.98

REQUIRED INFO FOR CRD QUOTES

Account FAN: TBD	<i>New or Existing Cradlepoint Account:</i>
FirstNet Account Phone #:	Agency Name:
Lift-gate delivery required: Yes	Admin Contact Name:
Existing Cradlepoint Account: Yes No	Phone:
Cradlepoint Account Number:	Email:

Purchase Orders MUST be addressed to AT&T and submitted via email to BOTH your AT&T FirstNet Consultant and Deployables@Rescue42.com. All prices quoted in U.S. Dollars. This quotation is valid for 30 days. All sales are final. Charges for equipment and any optional training and support add-ons will appear on AT&T bill and payment must be made to AT&T. Once order is placed, you cannot cancel your order or return the product for a refund. Additional shipping charges apply when shipped outside of the contiguous United States. Contact Rescue 42 for the freight quote, which is valid for 30 days. CRDs, miniCRDs and SLCs that ship without data plans will be ready to activate upon delivery. All applicable, local sales tax to be added on final bill from AT&T. FirstNet and FirstNet logo are registered trademarks of the First Responder Network Authority. CRD, miniCRD, SLC and SLC+ are registered trademarks of Rescue 42, Inc.

ITEM 7.C

Donation of a trained scent discrimination Bloodhound from Senior Resource Alliance

Request

The Police Department requests authorization to accept the donation of a trained scent discrimination Bloodhound from Senior Resource Alliance.

Explanation

The Senior Resource Alliance (SRA) assists senior citizens, their caregivers and family members in accessing the many services and programs of the state and federal government available to senior citizens. The SRA also is an objective clearinghouse for information and services offered by local, state, and national organizations. SRA has been serving our community since 1985. The SRA is donating a scent trained Bloodhound (value \$15,000) to the Kissimmee Police Department to assist us to protect those in our community who are at risk of wandering, finding missing persons, and creating a safer community.

Recommendation

Staff recommends approval for the Police Department to accept the donation of a trained scent discrimination Bloodhound from the Senior Resource Alliance.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Police

Presenter:

Attachment(s):

1. Senior Resource Alliance Donation Letter



Senior Resource Alliance

THE AREA AGENCY ON AGING OF CENTRAL FLORIDA, INC.

To the City of Kissimmee,

We look forward to the opportunity of working with the City of Kissimmee and supporting your efforts to deliver the highest quality scent discriminate K9 search resources to the community. The donation of the trained scent discriminate Bloodhound will have a value of 15,000.00 and will have multiple benefits for the City of Kissimmee. Below are just a few ways that having a trained Bloodhound and the included handler training can impact your commitment to creating a safer community.

Benefits of Scent Discriminate Bloodhound and Training

- Enhanced scent discriminate K9 trailing capabilities to find people with dementia and autism who are at high risk of wandering.
- Increased K9 Unit location success of missing persons and criminal suspects requiring fewer law enforcement resources and costs.
- Increased search capabilities (Scent discriminate Bloodhound is trained to trail for longer distances, in a variety of environments, and extended trail age.)
- Fewer human trafficking/missing persons deaths, injuries, or non-recovery cases.
- Positive public relations and awareness opportunities.
- Increased efficiency and effectiveness of search processes.
- Advanced scent article collection processes.
- Addition of scent collection as forensic evidence.

The donation includes:

- AKC Bloodhound
- M77 Human Scent Discriminate Trained
- Passive alert
- Includes Harness and Lead
- Includes 5 Days K9 Handler Training - Learn more about the included Handler Training [HERE](#)
- Includes 12-week Training Plan and Training Review, Field Training App, and One-year Training and Case Consultation

We are confident that our partnership with the City of Kissimmee will provide the highest-level of scent discriminate K9 trailing services to meet your commitment to protecting those at risk of wandering, finding missing persons, and creating a safer community.

Karla Radka, President and CEO
Senior Resource Alliance

Senior Resource Alliance | 3319 Maguire Blvd, Suite 100 | Orlando, Florida 32803

407-514-1800 | Fax: 407-228-1835 | www.seniorresourcealliance.org

ITEM 7.D

Replacement of playground at Kissimmee Lakefront Park

Request

Approval to transfer funds, purchase and construct a replacement playground at Kissimmee Lakefront Park.

Explanation

Parks and Recreation has been given a great opportunity to replace the ten-year-old playground at Kissimmee Lakefront Park off of Monument Avenue. The new playground structure will be built for children ages 2-5 and 5-12 years olds. This playground will feature state of the art playground components not currently available for purchase. BCI Burke Company, LLC has offered this playground at a substantial savings of \$128,946 with plans to unveil the new product line at its January 2024 Annual National Conference. BCI Burke Company is part of the Sourcewell Cooperative Purchasing Alliance, of which the City of Kissimmee is also a member (Contract #010521-BUR). The ability to use this contract has been verified by the City's Procurement division.

This new playground structure retails at \$192,974, but with the City's discount of nearly 67%, the cost will only be \$64,028. With shipping and discounted professional installation, the total cost is \$113,527.90. In order to provide this unique play space for the City's citizens to enjoy, staff is requesting to combine money from various projects to create this new project at our most frequently used park.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
10450106-506393	ST2401	Decrease	\$40,000	\$113,527.90
10450106-506393	ST2403	Decrease	\$35,000	
00150206-506393	PR2401	Decrease	\$35,000	
00150406-506494	PR2411	Decrease	\$4,000	
10450706-506393	TBD	Increase	\$114,000	

Financial Summary:

Staff is requesting to combine funds from Parks and Recreation capital projects and create a new project that will be titled Lakefront Park Playground to purchase and install the proposed playground.

Recommendation

Approval to transfer funds, purchase and construct a playground at Kissimmee Lakefront Park

REQUESTED CITY COMMISSION ACTION:

City of Kissimmee

Approve

Department: Parks & Recreation

Presenter:

Attachment(s):

1. (S) Agreement BCI Burke Lakefront Playground - Agenda
2. BCI Burke Quote

**AGREEMENT BETWEEN
CITY OF KISSIMMEE AND VENDOR**

THIS AGREEMENT is made this _____ day of _____ 2023 by and between the CITY OF KISSIMMEE, a municipal corporation of the State of Florida, 101 Church Street, Kissimmee, Florida 34741, hereinafter “City” and BCI Burke Company, LLC., 727 Northwest Way, Fond du Lac, WI 54937, hereinafter “Vendor” and each represents as follows:

WITNESSETH

WHEREAS, the City seeks a competent and qualified contractor to provide and install playground equipment at Kissimmee Lakefront Park, 201 Lakeview Drive, Kissimmee, FL 34741; and

WHEREAS, Chapter 287, Florida Statutes, grants government entities the authority to purchase goods and services as a form of inter-governmental cooperative purchasing in order to reduce administrative time and cost involved in the procurement process (i.e., cost of preparing bid specifications, advertising, etc.); and

WHEREAS, Pursuant to the City’s Purchasing Manual, the City may procure goods and services from bid or proposals from any government subdivisions when its in the best interest of the City of Kissimmee; and

WHEREAS, Pursuant to a competitive bidding and selection process No. RFP #010521, Sourcewell, a State of Minnesota local government agency, as Lead Public Agency, entered into an Agreement 010521-BUR with Vendor on May 12, 2023, which is attached hereto as Exhibit “A” and incorporated herein (hereinafter referred to as ‘Master Agreement’); and

WHEREAS, the City has determined that the terms and conditions of the Master Agreement match the City’s need for playground equipment, and therefore it is economically advantageous and in the best interest of the City to enter into a cooperative purchase contract with Vendor.

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

- 1. RECITALS.** The foregoing recitals are true and correct and incorporated herein.
- 2. THE CONTRACT DOCUMENTS.** The contract documents consist of this Agreement, the Master Agreement, which is attached hereto as Exhibit A, Sourcewell RFP #010521, which is attached hereto as Exhibit B, Burke Quotation # 9479-1, which is attached hereto as Exhibit C, and any subsequent duly executed amendments to any of the aforementioned

documents. These contract documents form the Agreement, and all are incorporated herein as if set forth in full. In the event of a conflict between the aforementioned documents, any duly executed amendment to this Agreement will control, followed by this Agreement, Exhibit A, Exhibit B, and Exhibit C, in that order.

Upon execution of this Agreement, all references made to “Sourcewell” in Exhibits A and B will be interpreted as pertaining to the City of Kissimmee, all references made to “Vendor,” in Exhibits A and B will be interpreted as pertaining to Vendor and all terms and conditions of Exhibit A and B not inconsistent with this Agreement, are deemed as having been implemented for use within the City of Kissimmee. It is understood that wherever the word “Sourcewell” appears, it will be read as “City of Kissimmee” and wherever the word “Vendor” appears, it will be read as “Vendor.”

3. **TERM.** The term of this Agreement shall begin upon execution and continue through November 30, 2025, the date of expiration of Master Agreement and subsequent amendments. This agreement may be extended if the Master Agreement is extended.
4. **SCOPE OF WORK.** Vendor agrees to provide the equipment, freight and installation of said equipment as further described in Exhibit C.
5. **SOVEREIGN IMMUNITY.** The City expressly retains all rights, benefits, and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of sovereign immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of City for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, shall not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.
6. **GOVERNING LAW.** The laws of the State of Florida govern the validity, enforcement, and interpretation of this Agreement. Venue for any cause of action asserted by any party brought in State Court shall be in Osceola County. Venue for any action brought in Federal court shall be in the Middle District of Florida, Orlando Division.
7. **NOTICE.** Any and all notices required by this agreement shall be in writing and either hand delivered or, if sent by U.S. Mail or overnight delivery shall be addressed as follows:

City of Kissimmee Steve L. Lackey Director Parks and Recreation 101 Church Street, Suite 330 Kissimmee, FL 34741	Vendor Marianne Larson Contract Administration & Events Manager BCI Burke Company, LLC P.O. Box 549 Fond du Lac, WI 54936
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- 8. PROJECT MANAGERS.** City and Vendor have identified individuals as Project Managers, listed below, who shall have the responsibility for managing the work performed under this Agreement. The person or individual identified by Vendor to serve as its Project Manager for this Agreement, or any replacement thereof, is subject to prior written approval and acceptance of City. If City or Vendor replace their current Project Manager with another individual, an amendment to this agreement shall not be required. City will notify Vendor, in writing, if the current City Project Manager is replaced by another individual.

- A. City's Project Manager's contact information is as follows:

Steve L. Lackey
Director
101 Church Street
Kissimmee, Florida 3741
407.518.2342
Steve.Lackey@cityofkissimmee.gov

- B. Vendor Project Manager's contact information is as follows:

Marianne Larson
Contract Administration & Events Manager
BCI Burke Company, LLC
P.O. Box 549
Fond du Lac, WI 54936
407.891.7632
902.979.2721
mlarson@bciburke.com

- 9. PUBLIC RECORDS.** The Vendor 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 Vendor shall keep and maintain public records required by the City to perform the service.

If the Vendor has questions regarding the application of Chapter 119, Florida Statutes, to the Vendor's duty to provide public records relating to this Contract, contact the Custodian of Public Records at 407-518-2308, cityclerkemail@kissimmee.gov, and 101 Church Street, Kissimmee, Florida 34741.

- a. If the City's Custodian of Records requests records from the Vendor, the Vendor 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.
- b. The Vendor 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 Vendor does not transfer the records to the City.
- c. Upon completion of the contract, the Vendor shall transfer, at no cost, to the City all public records in possession of the Vendor or keep and maintain public records required by the City to perform the service. If the Vendor transfers all public records to the City upon completion of the Contract, the Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Vendor keeps and maintains public records upon completion of the Contract, the Vendor 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. Unless otherwise directed by the City, all records will be transferred at the conclusion of the Contract.
- d. Upon notice to the Vendor of a request to inspect or copy public records relating to a City's contract for services, the Vendor shall provide the records to the City or allow the records to be inspected or copied within a reasonable time.
- e. If the Vendor 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.
- f. A Vendor who fails to provide the public records to the City within a reasonable time may be subject to penalties under Florida Statutes §119.10

10. PAYMENT. Upon review and approval of Vendor's invoice and verification that products and services have been rendered in conformity with this Agreement, the City shall pay Vendor in accordance with the Local Government Prompt Payment Act,

Chapter 218, Part VII, Florida Statutes. Vendor shall not apply any late charges, interest or penalties to any invoice or charges for services until thirty (30) days from the City's receipt of the invoice.

- 11. E-VERIFY.** In accordance with Section 448.095, Florida Statutes, Vendor 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 Vendor enters into a contract with a subcontractor performing work or providing services on its behalf, Vendor 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 Vendor 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. Vendor 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).

City acknowledges that Vendor may use workers outside the United States, who will not be subject to e-verification.

- 12. SCRUTINIZED COMPANIES CERTIFICATION.** By signing this Agreement, Vendor 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; and, for bids, proposals or contracts for goods or services of one million (\$1,000,000) dollars or more, that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria, per Section 287.135, Florida Statutes. If City determines, using credible information available to the public, that Vendor has submitted false certification, City shall provide Vendor with written notice of its determination. Vendor 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.

13. FOREIGN GIFTS AND CONTRACTS. Vendor must comply with any applicable disclosure requirements in Section 286.101, Florida Statutes.

14. SOCIAL, POLITICAL, OR IDEOLOGICAL FACTORS. Pursuant to Section 287.05701, Florida Statutes, as may be amended, the City cannot give preference to a Vendor based on the Vendor's social, political, or ideological interest.

15. PROHIBITED TELECOMMUNICATIONS EQUIPMENT. Vendor represents and certifies that it and its applicable subcontractors do not and will not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR Sections 52.204-24 through 52.204-26. By executing this Agreement, Vendor represents and certifies that Vendor and its applicable subcontractors must not provide or use such covered telecommunications equipment, system, or services for any scope of work performed for the City for the entire duration of this Agreement. If Vendor is notified of any use or provisions of such covered telecommunications equipment, system, or services by a subcontractor at any tier or by any other source. Vendor must promptly report the information in 40 CFR Section 52.204-25(d)(2) to the City.

16. PUBLIC ENTITY CRIMES. In accordance with the Public Entity Crimes Act (§287.133, Florida Statutes) a person or affiliate who has been placed on the convicted vendor list maintained by the State of Florida Department of General Services following a conviction for a public entity crime, may not submit a Bid on a contract to provide any goods or services to a public entity, may not submit a Bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit Bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in §287.017, for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

17. ANTITRUST VIOLATIONS; DENAIL OR REVOCATION UNDER SECTION 287.137, FLORIDA STATUTES. Pursuant to Section 287.137, Florida Statutes, as may be amended, a person or an affiliate who has been placed on the antitrust violator vendor list (electronically published and updated quarterly by the State of Florida) following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid,

proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity. By entering this Agreement, Contractor certifies neither it nor its affiliate(s) are on the antitrust violator vendor list at the time of entering this Agreement. False certification under this paragraph or being subsequently added to that list will result in termination of this Agreement, at the option of the City consistent with Section 287.137, Florida Statutes, as amended.

18. NON-DISCRIMINATION. Vendor shall not discriminate against any client, employee or applicant for employment because of race, age, color, religion, sex, sexual orientation, sexual preference, gender identity, national origin, physical or mental disability, marital status or medical status. Vendor shall comply with all applicable sections of the Americans with Disabilities Act. Vendor agrees that compliance with this provision constitutes a material condition to this Agreement, and that it is binding upon the Vendor, its successors, transferees, and assignees, for the period during which services are provided. Vendor further agrees to ensure that its independent contractors/subcontractors are not in violation of the terms of this provision.

19. ENTIRE AGREEMENT. This Agreement constitutes the complete, full, and wholly independent agreement among the parties to this Agreement with regard to the matters contained herein. This Agreement also supersedes all prior representation, statements, and understandings among the Parties to this Agreement with respect to the matters and things addressed herein, either written or oral.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed:

VENDOR- _____.

By: Marianne M. Larson

Title: Contract Administration & Events Manager

Date: Oct 16, 2023

STATE OF FLORIDA
COUNTY OF Osceola

The foregoing instrument was acknowledged before me this 16th day of October, 2023, by means of ☐ physical presence or ☒ online notarization, by (name of person) Marianne Larson as (type of authority) Manager for (name of party on behalf of whom instrument was executed) BCJ Burke company, a Florida corporation, who is personally known to me or has produced Wisconsin identification.

Notary Seal:



ANDREA CAMPBELL
Commission # GG 924785
Expires February 21, 2024
Bonded Thru Budget Notary Services

Notary: Andrea Campbell
Print Name: Andrea Campbell
My Commission Expires: Feb. 21, 2024

CITY OF KISSIMMEE

Olga Gonzalez, Mayor

Date: _____

Attest:

City Clerk

Approved as to form and legality:

City Attorney

EXHIBIT A
MASTER AGREEMENT

**Solicitation Number: RFP #010521****CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and BCI Burke Company, LLC, 727 Northwest Way, Fond du Lac, WI 54937 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Playground and Water Play Equipment with Related Accessories and Services from which Vendor was awarded a contract.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires February 17, 2025, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.
- C. **SURVIVAL OF TERMS.** Articles 11 through 14 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in Vendor's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. **WARRANTY.** Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Participating Entity.

C. **DEALERS, DISTRIBUTORS, AND/OR RESELLERS.** Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized dealers, distributors, and/or resellers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable

time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcwell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

B. SALES TAX. Each Participating Entity is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcwell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcwell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcwell Price and Product Change Request Form to the assigned Sourcwell Contract Administrator. This form is available from the assigned Sourcwell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcwell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing

restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically, a Participating Entity will issue an order directly to Vendor. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration of this Contract; however, Vendor performance, Participating Entity payment, and any applicable warranty periods or other Vendor or Participating Entity obligations may extend beyond the term of this Contract.

Vendor's acceptable forms of payment are included in Attachment A. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. **ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM.** Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Vendor, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum; the terms of which will be worked out directly between the Participating Entity and the Vendor. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Participating Entity requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Participating Entity and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. **TERMINATION OF ORDERS.** Participating Entities may terminate an order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Participating Entity.

E. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. **PRIMARY ACCOUNT REPRESENTATIVE.** Vendor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State/Province;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Vendor may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Vendor will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Vendor's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Vendor agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcewell in writing.

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

C. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

D. **WAIVER.** If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

E. **CONTRACT COMPLETE.** This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22, the terms of Articles 1-22 will govern.

F. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their

respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

12. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:
 - a. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use the Trademark(s) provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.
 - b. Vendor grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Vendor's Trademarks in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.
2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.
3. *Use; Quality Control.*

- a. Sourcewell must not alter Vendor's Trademarks from the form provided by Vendor and must comply with Vendor's removal requests as to specific uses of its trademarks or logos.
 - b. Vendor must not alter Sourcewell's Trademarks from the form provided by Sourcewell and must comply with Sourcewell's removal requests as to specific uses of its trademarks or logos.
 - c. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's Trademarks only in good faith and in a dignified manner consistent with such party's use of the Trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.
4. As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Vendor in violation of applicable patent or copyright laws.
5. *Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of vendors which may be used until the next printing). Vendor must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. **MARKETING.** Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

D. **ENDORSEMENT.** The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

14. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

16. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

A. PERFORMANCE. During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed will be borne by the Vendor.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

18. INSURANCE

A. REQUIREMENTS. At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for Products-Completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability*. During the term of this Contract, Vendor will maintain coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under this Contract.

Minimum Limits:

\$2,000,000 per claim or event

\$2,000,000 – annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Vendor agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance

maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Vendor must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications. Within this Article, all references to “federal” should be interpreted to mean the United States federal government.

The following list only applies when a Participating Entity accesses Vendor's Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 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 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

B. **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 C.F.R. § 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 C.F.R. § 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. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. **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 C.F.R. § 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. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 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 C.F.R. § 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. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require 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). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 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 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 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. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have 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. Vendors must 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. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must 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.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

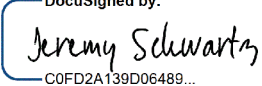
L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

22. CANCELLATION

Sourcewell or Vendor may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

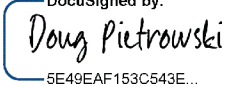
Sourcewell

BCI Burke Company, LLC

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By: _____
Jeremy Schwartz
Title: Director of Operations &
Procurement/CPO

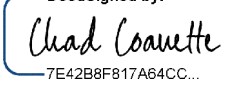
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By: _____
Doug Pietrowski
Title: Chief Financial Officer

Date: 2/15/2021 I 1:06 PM PST

Approved:

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By: _____
Chad Coauette
Title: Executive Director/CEO

Date: 2/15/2021 I 10:45 PM CST

RFP 010521 - Playground and Water Play Equipment with Related Accessories and Services

Vendor Details

Company Name: BCI Burke Company, LLC

Does your company conduct business under any other name? If yes, please state: WI

Address: 727 Northwest Way
Fond du Lac, wi 54935

Contact: Marianne Larson

Email: mlarson@bciburke.com

Phone: 920-933-6701

HST#:

Submission Details

Created On: Thursday November 12, 2020 10:17:31

Submitted On: Tuesday January 05, 2021 09:24:22

Submitted By: Jessica Westphal

Email: jwestphal@bciburke.com

Transaction #: 496579f6-aad4-4995-b61d-21d352c781ce

Submitter s IP Address: 24.196.128.114

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Please do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; mark "NA" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *	
1	Proposer Legal Name (and applicable d/b/a, if any):	BCI Burke Company, LLC	*
2	Proposer Address:	727 Northwest Way Fond du Lac, WI 54937	*
3	Proposer website address:	www.bciburke.com	*
4	Proposer s Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Doug Pietrowski, Chief Financial Officer, 727 Northwest Way, Fond du Lac, WI 54937 dpietrowski@bciburke.com (920) 921-9220	*
5	Proposer s primary contact for this proposal (name, title, address, email address & phone):	Marianne Larson, Sales Support Manager, 727 Northwest Way, Fond du Lac, WI 54397, mlarson@bciburke.com, (920) 933-6701	*
6	Proposer s other contacts for this proposal, if any (name, title, address, email address & phone):	Jessica Westphal, Sales Support Coordinator 727 Northwest Way, Fond du Lac, WI 54397, jwestphal@bciburke.com, (920) 933-6697	

Table 2: Company Information and Financial Strength

Line Item	Question	Response *	
7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	JE Burke Company was incorporated in 1920 as a weather-stripping company that quickly expanded to include the design and production of designer radiator furniture. After receiving a request to fabricate a slide for a family friend, JE Burke entered the playground industry and soon playground products were the company's main focus. The company remained family-owned and operated under the JE Burke company name until it was purchased from Greg Burke in 1997 and was incorporated as BCI Burke Company, LLC. Burke just celebrated our 100th anniversary this year. Our mission at Burke is simple: To bring Play That Moves You to communities around the world. Our purpose each and every day is to create quality and innovative playground equipment that inspires us to move. We do this with a culture that is focused on outcomes where everyone wins - the Company, our Employees, our Representatives, our Partners, our Customers and the Community. It's what we focus on every day. See attachment Burke History.	*
8	What are your company's expectations in the event of an award?	Our expectations are that Burke and Sourcewell will work as a cohesive team to provide Sourcewell customers with the highest quality products and services for the best value in the industry. We will commit our resources to immediately train our internal staff, Representatives and current customers regarding the benefits of purchasing through Sourcewell. We will market the Sourcewell contract to existing Burke and Sourcewell customers. We will introduce Sourcewell to the Canadian market using our current Representative and targeted Marketing initiatives to increase brand awareness for both Burke and Sourcewell in Canada. The Burke/Sourcewell partnership will continue to grow throughout the term of the contract as we exceed member expectations and bring "Play That Moves You" to communities throughout the US and Canada.	*

9	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	BCI Burke FEIN#: 39-1900568 NCAIS #: 332300 Architectural & Structural Metals Manufacturing Industry Type: Manufacturing Sub Type: Fabricated Metal Product Manufacturing Burke is a privately held company that is growing rapidly and has a strong financial position. We are pleased to provide the attached references to demonstrate our financial strength. BCI Burke has entered its 100th year of continuous operation in 2020 making us the oldest commercial playground equipment manufacturer in the United States. Achieving longevity such as this can only be accomplished through continued operational discipline and financial strength. See financial attachments	*
10	What is your US market share for the solutions that you are proposing?	Burke is proudly represented by local Representative Partners throughout the United States. Our market share varies by territory but is as strong as 30% in some areas.	*
11	What is your Canadian market share for the solutions that you are proposing?	Burke is proudly represented by local Representative Partners throughout Canada. Our market share varies by province but is as strong as 15% in some areas.	*
12	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	Burke has not ever petitioned for bankruptcy protection.	*
13	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	Burke is best described as a manufacturer. Burke has thirty contracted US and Canadian Representative Firms that employ outside and inside sales representatives and administrative staff. The Representative Firms are responsible for servicing all markets within their contracted territory. The Representative Firms are independent entities that contract with Burke to sell Burke products within their specific territory. Please see the enclosed Representative Territory map to identify coverage of Burke products and services throughout the United States and Canada. Having solid relationships with our Representatives is critical for Burke; in fact it is these very relationships that set Burke apart in the industry from other manufacturers. Bottom line is that the customer needs to be taken care of in a timely manner, and that is what Burke and our Representatives do. It may sound like a simple concept, but it is not common in our industry. The relationship with our Representatives is based upon a model that consists of shared goals and objectives, mutual dependence, open lines of communication, mutual commitment to customer satisfaction, concerns for others profitability, and trust. Each of these items overlaps the next and must remain in proportional balance in order for Burke and our Representatives to be successful. Burke realizes that the Representative is also our customer and to maintain our model of successful factory/Representative relationship, professional respect, continuous improvement initiatives, and investment of effort by top management are a necessity. Burke recognizes and strives to support our Representative Firms' efforts by timely responses and open lines of communication, and in the end, this allows Burke and our Representatives to offer superior customer service to the end customer.	*
14	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	It is a requirement in our industry to have all products certified through IPEMA to the ASTM F1487 and CSA Z614 playground safety standards for equipment and surfacing. We are active participants in the equipment certification program and the surfacing certification program, and all of our products are certified to the appropriate standards. Our company also maintains certification to ISO 9001 and ISO 14001, which are both necessities to compete and carry on business in our industry. BCI Burke offers Installer Training done in conjunction with NPCAI to offer both NPCAI and Burke Installer Certification. Many of our Representative Firms send their installers to this training to become Burke Certified Installers to ensure our products are installed safely, properly and compliant.	*
15	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	Burke has not had any Suspension or Disbarment proceedings during the past ten years.	*

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *	
16	Describe any relevant industry awards or recognition that your company has received in the past five years	Burke has been featured in many magazines and received recognition for many of our designs. • Featured in LASN 2017 Playground Issue - Hope Playground in Redmond, OR. • Featured in LASN 2016 School Issue - First United Methodist Church in Richardson, TX • 2015 Ruth Hughes Innovative Accessible Recreation Facility Award from the New Jersey Commission on Recreation for Individuals with Disabilities for The Jets Play 60 All Access Playground at Central Park of Morris County Please see attached Burke Awards for additional awards we have also received.	*
17	What percentage of your sales are to the governmental sector in the past three years	30% of Burke s sales over the past three years are to the governmental sector.	*
18	What percentage of your sales are to the education sector in the past three years	35% of Burke s sales over the past three years are to the education sector..	*
19	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	OMNIA Partners - Contract # R170301 Over \$18M in sales over past 3 years Equalis Group/Sourcing Alliance - Contract # 2020.05.4A New Contract, no reported sales at this time. HGACBuy- Contract # PR11-20 Approximately \$1M in Sales in past 3 years Ohio State Contract - Schedule # 800702 Approximately \$3M in Sales in past 3 years NJ State Contract - Contract # T0103, 16-FLEET-00134 Over \$2.7M in Sales over past 3 years	*
20	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	GSA - Contract #'s 47QSMA20D08NL & 47QSMA20D08NM Over \$6 Million in sales over the past 3 years CMAS - Contract#'s 4-20-78-0025B & 4-20-78-0025C Over \$700,000 in sales over the past 3 years	*

Table 4: References/Testimonials

Line Item 21. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *	
Mecklenburg County Parks and Recreation	James Rainey	(980) 314-1043	*
Downers Grove School District	.evin Barto	(630) 719-5858	*
Charlotte County	Lacey Solomon	(941) 833-3840	*

Table 5: Top Five Government or Education Customers

Line Item 22. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
Clark County School Distict	Education	Nevada - NV	Playground Equipment, Surfacing, Install	Range from \$15,000 to \$250,000	\$2,200,000	*
Town of Islip	Government	New York - NY	Playground Equipment, Surfacing and Install	ange from \$2,000 to \$155,000	\$2,800,000	*
Camp Lejeune	Government	North Carolina - NC	Playground Equipment, Surfacing, Install and Demo	Range from \$50,000 to \$100,000 per Location	\$6,500,000	*
USD 259	Education	.ansas - .S	Playground Equipment, Surfacing and Install	Range \$500 to \$120,000 per project	\$1,700,000	*
IDEA Schools	Education	Texas - TX	Playground Equipment, Surfacing and Install	Range from \$50,000 - \$200,000	\$2,800,000	*

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *
23	Sales force.	Burke employs four Regional Sales Managers (RSM) who assist our Representative firms and customers in a variety of ways. Each RSM is assigned a territory within the United States and Canada (Northeast, Southeast, Western and Midwest). The RSMs assist our Representative Firms by joining them in customer visits, lunch & learns, tradeshow, territory development, training and recruiting. The RSMs report directly to Michael Phelan, Burke's President/CEO. Burke's Sales Support and Marketing Departments provide continuous support to the RSMs and Representatives. This model has proven to be very effective for Burke and demonstrates our commitment to fully support our Representative firms and our customers. Burke RSMs also handle Burke Direct sales into areas that are not currently covered by a contracted Representative firm. RSMs work closely with Burke Sales Support Staff to ensure exceptional Burke designs, timely submission of proposals and quotes, order placement, order delivery, equipment installation and service.
24	Dealer network or other distribution methods.	Burke has thirty contracted US and Canadian Representative Firms that employ outside and inside sales representatives and administrative staff. The Representative firms are responsible for servicing all markets within their contracted territory. The Representative firms are independent entities that contract with Burke to sell Burke products within their specific territory. The Burke team is here to help before, during and after the sale - long after. From the initial design through the final installation, Burke works closely with its Representatives and directly with government entities to make sure all the pieces come together. Our focus is not just about Play that Moves Us today; it is about building a relationship with Sourcewell Partners and customers for years to come. Having solid relationships with our Representatives is critical for Burke; in fact it is these very relationships that set Burke apart in the industry from other manufacturers. Bottom line is that the customer needs to be taken care of in a timely manner, and that is what Burke and our Representatives do. It may sound like a simple concept, but it is not common in our industry. The relationship with our Representatives is based upon a model that consists of shared goals and objectives, mutual dependence, open lines of communication, mutual commitment to customer satisfaction, concerns for others profitability, and trust. Each of these items overlaps the next and must remain in proportional balance in order for Burke and our Representatives to be successful. Burke realizes that the Representative is also our customer and to maintain our model of successful factory/Representative relationship professional respect, continuous improvement initiatives, and investment of effort by top management are a necessity. Burke recognizes and strives to support our Representative Firms' efforts by timely responses and open lines of communication, and in the end this allows Burke and our Representatives to offer superior customer service to the end customer. Please see the enclosed Representative map to identify coverage of Burke products and services throughout the United States and Canada.
25	Service force.	We have one service and parts center with three full time technicians. The hours of operation are 7:30am-4:30pm Central Time. After-hour phone calls are recorded and are returned / answered the following business day. Additionally, our Representatives have access to our website 24/7. This website offers our Representatives a large amount of information they can access before, during or after our normal hours of operation. Burke has a toll free Customer Service telephone number available for customers to call the factory direct. Our Customer Service staff has the ability to process requests almost immediately and we can ship service parts the same day in many cases, including Next Day Air service if the situation requires it. Customer Service requests are forwarded directly to the Production Manager and their staff for immediate processing

26	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	Burke Customer Service staff is arranged to provide a person to talk to when a need arises. Incoming calls go directly to a real-live person, not an answering system. Staff also stagger their breaks, lunches and vacations to ensure someone is always available for calls during normal business hours. Our Customer Service staff has the ability to process requests immediately and we can service parts the same day in many cases, including Next Day Air service if the situation requires it. They have the availability to see stock status of parts to ensure promises made to customers on ship dates are met. Their requests (via information from the customer) are forwarded directly to the Production Manager and staff for immediate processing. Burke is committed to providing superior customer service. Not only do we evaluate our processes internally, we regularly send Customer Satisfaction Surveys to recent order recipients. We request feedback on quality, appearance, and the ease of installation. The survey also requests input on our selection of products, service provided by our Sales Representatives, and suggestion for improvement. These responses are then documented and reviewed by our Management, Quality and Customer Service departments.. This data is used to evaluate opportunities for continual improvement of system effectiveness and customer satisfaction.	*
27	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	Burke is able to offer our contracted products and services to Sourcewell customers throughout the United States.	*
28	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	Burke is very willing and able to provide our products and services to Sourcewell customers in Canada. Since 2010 we have had an Authorized Representative, PlayQuest Recreation, proudly representing Burke products in the Provinces of Alberta, Manitoba, Saskatchewan, Northwest Territories, Yukon and Northern British Columbia. PlayQuest Recreation provides turnkey solutions for any sized project. Since then Burke has hired on two more Representatives. Cobequid Consulting representing the Provinces of Nova Scotia, New Brunswick and Prince Edward Island and Suttle Recreation covering the Provinces of British Columbia and Yukon. Burke is actively seeking new Representation in the areas that are currently being serviced by Burke Direct. Burke's Regional Sales Manager visits Canada frequently and is working on partnerships with local installers and surfacing companies in Ontario and Quebec. In the City of Brampton, the fastest growing municipality in Canada, Burke equipment has been officially approved. Several architectural firms are scheduled to review Burke products and we are aggressively pursuing approval to be included in their specifications.	*
29	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	Burke is able to offer our contracted products and services to Sourcewell customers throughout the United States and Canada without any geographic restrictions.	*
30	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	Burke is not restricted by any other cooperative agreements pertaining to the Member Sectors to which we can sell. Burke is able to provide our contracted products and services in the government, education and not-for-profit sectors.	*
31	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	There are no specific contract requirements or restrictions that would apply to Sourcewell members in Hawaii and Alaska and in US Territories. These customers would be handled directly by Burke Corporate as a Burke direct customer.	*

Table 7: Marketing Plan

Line Item	Question	Response *
32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	Burke will develop and utilize cobranded postcard mailers, email blasts, and Google Adwords advertising to dramatically elevate awareness. In addition, each message will be shared via our social media campaign. Website / Catalog Burke's two most impactful marketing initiatives are our website and catalog. Burke will maintain a dedicated page within our website outlining our relationship with Sourcewell and providing a link to the Sourcewell web site. Sourcewell will also be included in our printed catalog. Direct Mail Campaigns/ Co-branded Collateral/Advertising Schedule Our marketing team will build in the Sourcewell logo and language to co-brand our pieces in our scheduled marketing campaigns. Additionally, we will budget for additional mailings specific to Sourcewell Direct mail postcards will be sent to our database, along with any database records that Sourcewell provides. Print advertising is scheduled in local and national publications for the year and will include Sourcewell in our scheduled placements. These publications include, but are not limited to Parks & Recreation Magazine and Parks and Rec Business Magazine. We also participate in state specific publications such as California Parks and Recreation Society (CPRS) Magazine, and our partnership will also be reflected in those advertisements. Tradeshaw Participation Burke has increased our presence in both the local and national tradeshow circuit, heavily increasing our marketing efforts for the National Recreation and Parks Association (NRPA) Annual Conference in September, as well as the American Society of Landscape Architects (ASLA) immediately following NRPA in October. We will incorporate the Sourcewell logo in our physical handouts, as well as our pre-and post-show marketing efforts, including print advertising in national magazines and show specific publications, email blasts, and our social media campaign. Internal Promotion Burke provides a Burke Spot for all upcoming news and events to all our employees and Representative Firms. We will send ongoing updates regarding the contract award and reminders will be include the Sourcewell contract in their communication and sales tactics. We hold an annual Sales Conference for our Representative Firms that include continuing education presentations and updates. Sourcewell contract details and reminders are included in these presentations. See attached examples of Burke s 2021 Catalog, Shade Systems Catalog, and current marketing materials used with similar contracts and promotions.
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Burke uses Facebook, Twitter, LinkedIn, YouTube, Vimeo and a Blog to share pertinent information with followers that include both Representative and potential customers. Many of our Representatives share Burke posts and information with their followers to help spread the message even further. Burke also runs an email campaign, utilizes AdWords and Remarketing and participates in Facebook ads to assist in brand awareness and help promote its products.
34	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	By linking existing clients with Burke, Sourcewell can provide customers better and additional resources by promoting this contract and partnership. In addition to the marketing efforts above in Question 32, Burke will pull our existing government customers from our databases and send targeted email blasts and direct mail postcards to these contacts. Our message will include not only the award of the contract, but can also include our past efforts and successes utilizing this contract and encourage them to take advantage of this opportunity. Because these contacts are existing customers, our Representative Firms and sales staff can also contact some of these clients directly, based on the relationship we have built and sustained in some of these markets to promote the benefits of utilizing Sourcewell for another project.
35	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	Most business is conducted through location Representatives due to the complexity of playground projects. If awarded the Sourcewell Contract, Burke is open to replicating an ordering system similar to the GSA Advantage website for use by Sourcewell customers.

Table 8: Value-Added Attributes

Line Item	Question	Response *
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36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	BCI Burke offers Installer Training done in conjunction with NPCAI to offer both NPCAI and Burke certifications. This is a two day training at a significantly reduced rate that includes lodging and meals. Installers will also receive a tour of Burke Headquarters. Installer Training is optional; installers do not need to be Burke or NPCAI Certified to install our equipment as long as the installation instructions are followed. Burke also offers product training, including Lunch & Learns for designers and staff. Topics include: • Proper Playground Maintenance • Play That Moves You - Making The Case for Play • Designing Play That Moves You • Burke Product Training • Creating Safer Play - NPPS Safety Supervision Burke offers a continuing education program to Parks and Recreation professionals, Landscape Architects and Architects where they can obtain CEU credits and help further their education. The program is offered as a self-paced online course through AEC Daily as well as in-person at conferences, symposiums or Lunch and Learns. The in-person training is provided by a certified trainer and includes leave behind study guides and references to help keep important information at their disposal. These three courses are developed with experts in the field and provide no-cost training options and offer the opportunity to learn about Inclusive Play, Outdoor Fitness and Obstacle Courses and Outdoor Musical Instruments.	*
37	Describe any technological advances that your proposed products or services offer.	EZDesign Software Burke's Designers utilize our proprietary EZDesign software, which is known to be the most advanced in the industry - features all applicable safety standards and ADA requirements built right into the design configurator. KoreKconnect Direct-Bolt System Nucleus and Voltage feature our Industry-leading KoreKconnect direct-bolt system resulting in the strongest and most accurate connection system ever. Factory located connection points make for easy, precise installation and an error-free fit. Best of all, KoreKconnect is covered for 100 years under our non-pro-rated Generations Warranty KoreKconnect clamp castings [Nucleus, Voltage] shall be cast aluminum heat-treated alloy A356-T6 with a tensile strength of at least 34,000 psi, yield strength of at least 24,000 psi, shear of 20,700 psi, and elongation of 3.50% minimum. Each casting shall clamp to the post with two connection bolts. Clamp casting shall encapsulate the component attached to support surge loads, preventing surge loads being supported by only the hardware. Clamp shall be finished with a baked on powder coating. Color compounded, rotationally molded plastics You'll get long wear and bright, vibrant colors that hold up for years thanks to our thick, durable rotomolded plastics with UV-20 protection. Color compounding provides greater structure integrity for the life of rotationally molded products; the UV inhibitor is added during the production process and keeps these plastics from UV degradation and fading like that of products produced via a Dry-Blend process. Rotationally Molded Plastic Parts shall be manufactured from color compounded, linear, low-density polyethylene with an average of .250" wall thickness and textured non-sliding surfaces. Plastic parts shall be UV stabilized to UV-20 and shall have a density of 0.935 per ASTM D-1505. Plastic parts shall have a tensile strength at yield no less than 2800 psi with flexural modulus of 90,000 psi.	*

38	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	We all share one earth, and at Burke we want to preserve our planet for future generations of children. We've implemented a variety of practices to help us help keep our shared world a better, greener place. Manufacturing: Being ISO 14001:2015 certified means we have strict environmental controls built into our manufacturing process. We get 100% of our energy from wind and other renewable resources. This helped us earn the Green Power Partner designation from the US Environmental Protection Agency - the only playground manufacturer to achieve this! Internally, we have a very comprehensive recycling program where we recycle the following: • Metal products, including stainless steel and copper/brass • Aluminum • Cardboard (separate dumpsters on site for this) • HDPE (High Density Polyethylene) • Wood pallets • Paper and aluminum cans and plastic bottles (bins at each person's desk for these) Additionally, we have an internal EMAP (Environmental Management Action Plan) to try to achieve 100% LED Lighting in the entire facility over a three year span starting in 2019. To date we are over 90% LED fixtures on our campus. In our powder coat system, we utilize phosphate-free chemicals in our cleaning processes, as well as enlist a third-party certified handler to manage any wastes from this process according to State and Federal regulations. We also utilize motion activated lights wherever feasible to reduce the amount of energy consumed in lighting, especially in warehouse and even restroom areas. Design: We design high-quality products with long life expectancies and quality components to extend the useable life of the play space. Many of our raw materials have recycled content, including our steel tubes and castings. In addition, many other Burke products are made from recycled material. For example, the NaturePlay® ClubHouse™ Board Panels and Roofs are made from 75% post-consumer material and are 100% recyclable after use. Offices: Our corporate office uses energy efficient LED lighting to help reduce energy use on a daily basis. We also use recycled paper to print our catalogs and created a digital catalog to decrease the amount of paper being used. We abide by the six R's: Reduce, Reuse, Recycle, Repair, Recover and Respect. Suppliers: To minimize transportation costs and fuel usage, we prefer to work with suppliers located near our manufacturing facility if at all possible. See attachment Green Initiative	*
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	Burke has received the ISO 14001:2015 Certification by the NSF-International Strategic Registrations for Design and Manufacture of Playground Park and Recreation Equipment with the Design, Manufacture and Distribution of Specialized Parts. We get 100% of our energy from wind and other renewable resources. This helped us earn the Green Power Partner designation from the US Environmental Protection Agency - the only playground manufacturer to achieve this! See attachment Green Initiative	*
40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	BCI Burke is not eligible for WMBE or SBE accreditation, however many of our local Sales Representatives have obtained these accreditations.	*

41	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	Research At Burke we believe great product design comes from great research, for example we continue to study how children play with our partner at University of Nebraska Omaha and incorporate what we learn into our product and playground designs. Our product design process includes a focus on how to enhance development and overall experience for children and adults of all abilities. Design To design the best playgrounds that comply with necessary standards, Burke has proprietary software that has all of the controls built-in to ensure all safety standards are met. Fusing creativity into playspaces, we have landscape designers to design custom playspaces using panels and unique layouts to create a space that ignites imagination and brings communities together. Playground Grant Search and Fundraising Burke provides options and programs that can help you raise funds and search for grants to help fund your playground equipment. For your convenience, we've brought together information on our fundraising program, grant resources and purchasing cooperatives. And of course, we're always glad to discuss your playground equipment needs and help you find ways to get the playground your kids deserve. https://www.bciburke.com/resources/playground-funding-resources Promotions and Grants Burke offers three to four promotions annually that we will share with Sourcewell participants. We also have a Burke in-kind grant program that customers can apply for if they meet the criteria.
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Table 9: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	
42	Do your warranties cover all products, parts, and labor?	Burke stands behind our products like no other playground manufacturer. It starts with Burke Built® quality that is backed by the longest and strongest warranty in the industry – the Burke's Generations Warranty®. We don't prorate your warranty and if a plastic play event needs replacement during the warranty period due to manufacturing defect, we'll replace it for free and give you a brand-new warranty on the part. Burke's hand-crafted quality also means less maintenance is required, which keeps your operating costs low and your playground open for play. The Burke Generations Warranty is the longest and strongest in the industry and shows our commitment to creating spaces that will serve communities for years to come. Labor is not included in Burke's warranty. However, numerous Burke Representatives include a supplemental warranty for labor related to warrant repairs on Burke equipment. Each warranty claim is reviewed on a case by case basis to ensure the full scope of the claim is understood and documented. It is during this review that a decision is made on the cost of labor and if it is to be covered in relation to the claim. See Burke Warranty and Shade Systems Warranty attachments	*
43	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	Our warranty is not prorated and replacement parts covered under that warranty will have their own appropriate, full-length warranty instead of being restricted to the balance of the original warranty period which is based on the date it was shipped by the manufacturer. Furthermore, all parts covered under Burke's warranty are shipped free of charge.	*
44	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Burke offers a Back-charge/Reimbursement form as needed (which includes mileage reimbursement) for when products are replaced. Every circumstance is handled individually by Customer Service staff and/or Plant Manager.	*
45	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	Burke has Authorized Representatives across the US and Canada that are able to assist with locating qualified installers for removal or replacement of parts. If there is a territory unrepresented by a Burke Dealer, Burke Corporate will locate a qualified organization to assist with product removal or installation. Many of Burke parts can be simply replaced without needing to rely on outside contractors or installers.	*
46	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	Burke does not cover warranty service for parts made by other manufacturers. Burke also takes great care in making sure we do not mix and match our parts with other manufacturers on the same piece of play equipment. Installers will, in most cases, work with whatever equipment is on site, even if it is multiple suppliers, however warranty service should be directed to the original manufacturer if at all possible.	*
47	What are your proposed exchange and return programs and policies?	If products are returned to Burke due to an error in ordering or the customer has changed their mind on something, parts that can go directly into stock with no additional work are simply put into stock and the customer is credited for those parts. Parts that need additional processing or re-powder coating are assessed a 25% re-stocking charge. If parts are not able to be used (as determined by the Quality Manager) and have to be scrapped, the customer will not receive credit for those items.	*
48	Describe any service contract options for the items included in your proposal.	Burke does not provide service contract options.	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
49	What are your payment terms (e.g., net 10, net 30)?	There are no credit requirements for governmental entities purchasing with BCI Burke. All governmental entities are granted net 30 day terms.	*
50	Describe any leasing or financing options available for use by educational or governmental entities.	To assist with financing, Burke partners with NewLane Finance to offer a payment plan for approved customers. See NewLane Finance attachment	*
51	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell participating entities' purchase orders.	The Burke Representative will receive a signed quotation or purchase order from the Sourcewell customer. The Representative will utilize Burke's internet based ordering system which is available for use by Authorized Representatives only. The system is entirely self-developed and self-managed by our in-house IT and Order Entry Departments. Once the order is placed, our Order Entry Department will process the order internally. The order is carefully reviewed by the Order Entry and Design Departments to ensure the order matches the customer's purchase order including equipment, color, price, requested delivery date, shipping location and any other information pertinent to the order. The Burke Representative will invoice the customer once the order has shipped. All Sourcewell orders will be flagged as such in Burke's system so that Burke's Accounting Department is able to easily identify the Sourcewell orders and generate quarterly reports which accurately reflect Sourcewell order totals.	*
52	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	Burke is currently not set up to accept P-card payments. If awarded the Sourcewell contract, Burke will carefully consider adding this capability.	*

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *	
53	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	All contract pricing is determined using product category discounts. Information relating to Burke equipment, Burke Turf, Burke Tiles, Shade and installation is provided in the Burke 2021 Price List attachment which includes Burke Equipment & Surfacing Pricing, Burke Equipment Installation Rates, and Shade Structures Pricing.	*

54	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	Burke will offer discounts off of list price for each product category as follows: • 7% Discount off of published list prices: - o Burke Playground Equipment - o Sports & Recreation Equipment - o Site Amenities - o Borders • 5% Discount off of published list prices - o Burke Turf - o Burke Tiles 3.5% Discount for shade products • Burke Equipment Installation - o Not to exceed rates based on List Price of proposed equipment. See attached chart which provides the rates for each state. • Burke Tile Installation Rates - o A per tile rate based on location of project. See attached chart which provides the rates for each state. • Freight - o Due to fluctuations in freight rates and the varying size and shape of playground equipment, freight is determined on a per project basis. Freight will be invoiced to NJPA customers at Burke's cost. The freight charge will be clearly noted on the quote provided by Burke. All pricing information relating to Burke equipment, Burke Turf, Burke Tiles and installation is provided in the Burke 2021 Price List attachment	*
55	Describe any quantity or volume discounts or rebate programs that you offer.	Burke will offer the following volume discounts on Burke Playground Equipment, Sports & Recreation Equipment, Site Amenities and borders: List Price Range Discount off of list price \$1-\$49,999 Standard proposed discount of 7% off of list price \$50,000-\$99,999 10% Discount off of list price \$100,000 and above 15% Discount off of list price Burke offers promotions throughout the year which will provide additional customer discounts. These promotional prices will be offered to Sourcewell customers and quoted accordingly. We will encourage Sourcewell customers to utilize these deep discounts when they are available. Please note that volume pricing does not apply to surfacing or installation.	*
56	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	Sourcewell customers are able to purchase non-Burke contracted products and services by utilizing the "open market" clause in the Sourcewell contract. Our Representative firms distribute a wide variety of ancillary products including water play, bleachers, park shelters, non-Burke surfacing (PIP, EWF etc.) offering a full turn-key solution for Sourcewell customers. Burke will provide line item quotations for these "open market" items on the Sourcewell quote, and will clearly indicate that these are "open market" goods and/or services. The Sourcewell customer will be required to sign the quotation, which is an indication that they agree to the products and services as quoted.	*
57	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	All costs for the project will be indicated as a line item on the customer's quotation. Installation will be charged per the Equipment Installation Rate sheet included in the pricing section. These charges are "do not exceed" rates and do not apply to prevailing wage projects. Please see the Equipment Installation Rate sheet for more information. The customer will be notified of any additional charges that may apply to custom equipment, surface mount or coastal paint options.	*
58	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	Due to fluctuating fuel prices, freight rates are quoted on a per project basis, and are valid for 30 days from the quote date. The freight charge will be clearly indicated on the quote provided by Burke and will be quoted at Burke's cost.	*
59	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Burke will use transportation brokers to source out the most cost effective freight rate to ship to Alaska, Hawaii and Canada. The freight charges will be clearly noted on the quote provided by Burke.	*

60	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Because Burke quotes out each project individually, we are able to accommodate special delivery requests (lift gate, residential delivery, and timekeeper) for an additional cost which will be reflected on the quotation	*
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Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
61	b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	

Table 13: Audit and Administrative Fee

Line Item	Question	Response *	
62	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.	As mentioned in the answer to question 51, each Sourcewell customer order is carefully audited by our Accounting Department, Design Department and Sales Department to ensure everything is to the customer's specifications and according to the terms and conditions of the Sourcewell contract. Burke works very closely with our Representatives and customers to ensure total customer satisfaction throughout the entire process.	*
63	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	Burke is pleased to offer an administrative fee of 2% of the of the customer price of all products and services invoiced/sold under the Sourcewell contract. This fee will be reported and paid to Sourcewell on a quarterly basis. The sale will be reported and the fee paid once full payment is received from the Sourcewell customer. Burke agrees not to up-charge or offset the administrative fees to Sourcewell Members.	*

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *
64	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	Playground Equipment Sports & Recreation Equipment Site Amenities Shade Burke Turf and Burke Tiles Surfacing, including plastic borders Installation of Burke Equipment Installation of Burke Turf & Burke Tiles Delivery of all products Sourcewell customers will also be able to purchase non-Burke contracted products and services by utilizing the "open market" clause in the contract. Our Representative firms sell a wide variety of products including water play, bleachers, shelters, surfacing (PIP, EWF etc.), offering a full turn-key solution for your park or school. See attachments: Burke 2021 Catalog Shade Systems Catalog
65	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	Burke does not have any products or services that have subcategories.

Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments	
66	Playground equipment, site furnishings, site amenities, and accessories.	☒ Yes ☐ No	N/A	*
67	Water play and aquatic recreational structures and equipment.	☐ Yes ☒ No	These products are available for purchase via open market designation through our local Representative Firms	*
68	Playground surfacing and fall protection, and water play and aquatic recreational surfacing.	☒ Yes ☐ No	Burke offers Burke Turf and Burke Tile pricing as line items on the contract. Additional surfacing options are available as open market items through our Authorized Representatives.	*
69	Services related to the solutions above.	☒ Yes ☐ No	N/A	*

Table 15: Industry Specific Questions

Line Item	Question	Response *
70	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	If we are awarded the contract we will monitor our progress and success by measuring activity and revenue generation. The best metrics to capture this are tracking the project dollars quoted using the contract and the order dollars placed using the contract. We can track this by Representative firm and by territory to understand where we are being successful and develop targeted efforts for areas we want to improve.
71	Describe how your offering addresses the needs of user s safety, well-being, and range or level of accessibility?	At Burke, we design and test our products to all applicable safety standards. We are participants in the International Play Equipment Manufacturer s Association (IPEMA) certification program, and our facility and processes are audited by IPEMA and their third-party verifier to participate in the program and maintain certified products. Burke's Engineering and Product Design Manager, Scott Liebelt, is a director on the IPEMA Board of Directors. He attends ASTM and IPEMA meetings to participate in writing, revising, and interpreting the IPEMA procedures and ASTM-1487 standard, which is the consumer safety performance specification for playground equipment for public use. We have six Burke employees from a variety of departments that are Certified Playground Safety Inspectors (CPSI) through the National Recreation and Park Association (NRPA). The design of our playspaces also promotes safety, well-being and accessibility by focusing on not just access but Universal Design. This means designing spaces to be useable for everyone in the community, regardless of ability, level of concentration or age. Not only do we provide a variety of play events that are designed with these principles, but the overall play environment design has the Universal Design lens with play variety and equity as important considerations. In order to create spaces for the well-being and development of all people, we need to design them with engagement, excitement, socialization and community for everyone.
72	Describe how your offering addresses the user s desire to customize the offering (e.g. themes, etc.).	Customizable playspaces can set your playground apart and create an imaginative play experience like no other! Your Burke Representative and our creative Design Team will help you bring your play environment to life and create a space that's as unique as your community with anything from custom vehicles, play panels, photo opportunity panels, storefronts, post toppers, counters, NaturePlay, ClubHouses, barns, airplanes and more! Our Design Team has backgrounds in design, animation, landscape architecture and art and uses their creativity and experience to design a play environment that fosters pretend play and helps children develop friendships and enhance their imaginative skills.
73	Identify any certification(s) that your business or the products included in your proposal have attained or received.	• ISO 9001:2015 Certification • ISO 14001:2015 Certification • Founding and active member of the International Play Equipment Manufacturer's Association (IPEMA). In fact Burke's Engineering and Product Manager, Scott Liebelt, is a director on the IPEMA Board of Directors. He attends ASTM and IPEMA meetings to participate in writing, revising, and interpreting the IPEMA procedures and ASTM-1487 standard, which is the consumer safety performance specification for playground equipment for public use. • Accredited IPEMA Certification facility • Alliant Energy's Second Nature™ Program • Partner with US Environmental Protection Agency Green Power Program • Partner with the National Program for Playground Safety (NPPS) and only playground manufacturer to give a free NPPS Playground Supervision Safety Kit with every modular play structure order! • Currently, six Burke employees are certified through the National Recreation and Park Association (NRPA) as Certified Playground Inspectors

Table 16: Exceptions to Terms, Conditions, or Specifications Form

Line Item 74. NOTICE: To identify any exception, or to request any modification, to the Sourcwell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer s exceptions and proposed modifications are subject to review and approval of Sourcwell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification

Proposer's Affidavit**PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE**

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
 - a. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
 - b. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
 - c. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

☒ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Jessica Westphal, Sales Support Coordinator, BCI Burke Company, LLC

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

☒ Yes ☐ No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum 6_Playground_Water_Play_Equipment_RFP_010521 Tue December 22 2020 03:29 PM	☒	1
Addendum 5_Playground_Water_Play_Equipment_RFP_010521 Fri December 18 2020 04:15 PM	☒	1
Addendum 4_Playground_Water_Play_Equipment_RFP_010521 Mon December 7 2020 07:55 AM	☒	1
Addendum 3_Playground_Water_Play_Equipment_RFP_010521 Thu November 19 2020 08:52 AM	☒	1
Addendum 2_Playground_Water_Play_Equipment_RFP_010521 Fri November 13 2020 09:09 AM	☒	2
Addendum 1_Playground_Water_Play_Equipment_RFP_010521 Thu November 12 2020 10:53 AM	☒	2

AMENDMENT #1
TO
CONTRACT #010521-BCI

THIS AMENDMENT is by and between **Sourcewell** and **BCI Burke Company, LLC** (Vendor).

Vendor was awarded a Sourcewell Contract for Playground and Water Play Equipment with Related Accessories and Services effective February 15, 2021, through February 17, 2025, relating to the provision of services by Vendor to Sourcewell and its Members (Original Agreement).

The parties agree that certain terms within the Original Agreement will be updated and amended and only to the extent as hereunder provided.

IN CONSIDERATION OF the mutual covenants and agreements described in this Amendment, the parties agree as follows:

1. This Amendment is effective upon the date of the last signature below.
2. Table 13: Audit and Administrative Fee—Line Item Question 63 of the Proposal is deleted in its entirety and replaced with the following new language:

RESPONSE: Burke is pleased to offer an administrative fee of 2% of the customer price of all products and services, excluding freight and bond charges, invoiced/sold under the Sourcewell contract. This fee will be reported and paid to Sourcewell on a quarterly basis. The sale will be reported, and the fee paid once full payment is received from the Sourcewell customer. Burke agrees not to up-charge or offset the administrative fees to Sourcewell Members.

Except as amended by this Amendment, the Original Agreement remains in full force and effect.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
Authorized Signature

Jeremy Schwartz
Name – Printed

Title: Director of Operations & Procurement/CPO

Date: 3/10/2021 I 5:29 PM CST

BCI Burke Company, LLC

DocuSigned by:
By: Marianne Larson
Authorized Signature

Marianne Larson
Name – Printed

Sales Support Manager
Title: _____

Date: 3/10/2021 I 2:23 PM PST

Sourcewell-APPROVED:

DocuSigned by:
By: Chad Coauette
Authorized Signature

Chad Coauette
Name – Printed

Title: Executive Director/CEO

Date: 3/10/2021 I 5:47 PM CST

**AMENDMENT #2
TO
CONTRACT #010521-BCI**

THIS AMENDMENT is by and between **Sourcewell** and **BCI Burke Company, LLC** (Vendor).

Sourcewell awarded Vendor a contract for Playground and Water Play Equipment with Related Accessories and Services effective February 15, 2021, through February 17, 2025, relating to the provision of services by Vendor to Sourcewell and its Members (Original Agreement).

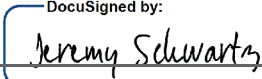
The parties agree that certain terms within the Original Agreement will be amended and only to the extent as hereunder provided.

IN CONSIDERATION OF the mutual covenants and agreements described in this Amendment, the parties agree as follows:

1. This Amendment is effective upon the date of the last signature below.
2. Section 18. Insurance, Subsection A. Requirements, Item 5 Professional/Technical Errors and Omissions of the Original Agreement is deleted in its entirety.

Except as amended by this Amendment, the Original Agreement remains in full force and effect.

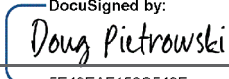
Sourcewell

By: 
Jeremy Schwartz
C0FD2A139D06489...

Title: Director of Operations & Procurement/CPO

Date: 3/18/2021 I 4:23 PM CDT

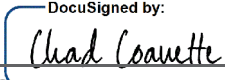
BCI Burke Company, LLC

By: 
Doug Pietrowski
5E49EAF153C543E...

CFO
Title: _____

Date: 3/18/2021 I 2:11 PM PDT

Sourcewell-APPROVED:

By: 
Chad Coquette
7E42B8F817A64CC...

Title: Executive Director/CEO

Date: 3/18/2021 I 4:25 PM CDT

**AMENDMENT #3
TO
CONTRACT #010521-BCI**

THIS AMENDMENT is effective upon the date of the last signature below by and between **Sourcewell** and **BCI Burke Company, LLC** (Vendor).

Sourcewell awarded Vendor a contract for Playground and Water Play Equipment with Related Accessories and Services effective February 15, 2021, through February 17, 2025, relating to the provision of services by Vendor to Sourcewell and its Members (Original Agreement).

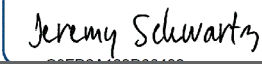
The parties agree that certain terms within the Original Agreement will be amended and only to the extent as hereunder provided.

IN CONSIDERATION OF the mutual covenants and agreements described in this Amendment, the parties agree as follows:

The response to question 49 in Table 10 of the Proposal is clarified to read: "Payment for equipment items will be due within 30 days after the products ship. Service-related items will typically be invoiced at completion of the project and will be due within 30 days of the invoice date. Larger projects may require progress payments, in which case, these terms will be clearly noted on the customer quotation."

Except as amended by this Amendment, the Original Agreement remains in full force and effect.

Sourcewell

DocuSigned by:
By: 
Jeremy Schwartz

Title: Director of Operations & Procurement/CPO

Date: 5/12/2023 | 7:49 PM CDT

BCI Burke Company, LLC

DocuSigned by:
By: 
Marianne Larson

Title: Contracts & Sales Admin Mgr

Date: 5/12/2023 | 12:26 PM PDT

Sourcewell—APPROVED:

DocuSigned by:
By: 
Chad Coquette

Title: Executive Director/CEO

Date: 5/12/2023 | 8:24 PM CDT

EXHIBIT B
SOURCEWELL RFP #010521



RFP #010521
REQUEST FOR PROPOSALS
for
Playground and Water Play Equipment with Related Accessories and Services

Proposal Due Date: January 5, 2021, 4:30 p.m., Central Time

Sourcewell, a State of Minnesota local government agency and service cooperative, is requesting proposals for Playground and Water Play Equipment with Related Accessories and Services to result in a contracting solution for use by its Participating Entities. Sourcewell Participating Entities include thousands of governmental, higher education, K-12 education, nonprofit, tribal government, and other public agencies located in the United States and Canada. A full copy of the Request for Proposals can be found on the Sourcewell Procurement Portal [<https://proportal.sourcewell-mn.gov>]. Only proposals submitted through the Sourcewell Procurement Portal will be considered. Proposals are due no later than January 5, 2021, at 4:30 p.m. Central Time, and late proposals will not be considered.

Solicitation Schedule

Public Notice of RFP Published:	November 10, 2020
Pre-proposal Conference:	December 3, 2020, 10:00 a.m., Central Time
Question Submission Deadline:	December 23, 2020, 4:30 p.m., Central Time
Proposal Due Date:	January 5, 2021, 4:30 p.m., Central Time Late responses will not be considered.
Opening:	January 5, 2021, 6:30 p.m., Central Time **

** SEE RFP SUB-SECTION V. G. "OPENING"

I. ABOUT SOURCEWELL PARTICIPATING ENTITIES

A. SOURCEWELL

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that facilitates a competitive public solicitation and contract award process for the benefit of its 50,000+ participating entities across the United States and Canada. Sourcewell's solicitation process complies with State of Minnesota law and policies, conforms to Canadian trade agreements, and results in cooperative contracting solutions from which Sourcewell's Participating Entities procure equipment, products, and services.

Cooperative contracting provides participating entities and vendors increased administrative efficiencies and the power of combined purchasing volume that result in overall cost savings. At times, Sourcewell also partners with other purchasing cooperatives to combine the purchasing volume of their membership into a single solicitation and contract expanding the reach of contracted vendors' potential pool of end users.

Sourcewell uses a website-based platform, the Sourcewell Procurement Portal, through which all proposals to this RFP must be submitted.

B. USE OF RESULTING CONTRACTS

In the United States, Sourcewell's contracts are available for use by:

- Federal and state government entities;
- Cities, towns, and counties/parishes;
- Education service cooperatives;
- K-12 and higher education entities;
- Tribal government entities;
- Some nonprofit entities; and
- Other public entities.

In Canada, Sourcewell's contracts are available for use by:

- Provincial and territorial government departments, ministries, agencies, boards, councils, committees, commissions, and similar agencies;
- Regional, local, district, and other forms of municipal government, municipal organizations, school boards, and publicly-funded academic, health, and social service entities referred to as MASH sector (this should be construed to include but not be limited to the Cities of Calgary, Edmonton, Toronto, Calgary, Ottawa, and Winnipeg), as well as any corporation or entity owned or controlled by one or more of the preceding entities;

- Crown corporations, government enterprises, and other entities that are owned or controlled by these entities through ownership interest;
- Members of the Rural Municipalities of Alberta (RMA) and their represented Associations, Saskatchewan Association of Rural Municipalities (SARM), Saskatchewan Urban Municipalities Association (SUMA), Association of Manitoba Municipalities (AMM), Local Authority Services (LAS), Municipalities Newfoundland and Labrador (MNL), Nova Scotia Federation of Municipalities (NSFM), and Federation of Prince Edward Island Municipalities (FPEIM).

For a listing of current United States and Canadian Participating Entities visit Sourcewell's website (note: there is a tab for each country's listing): <https://www.sourcewell-mn.gov/sourcewell-for-vendors/agency-locator>.

Access to contracted equipment, products, or services by Participating Entities is typically through a purchase order issued directly to the applicable vendor. A Participating Entity may request additional terms or conditions related to a purchase. Use of Sourcewell contracts is voluntary and Participating Entities retain the right to obtain similar equipment, products, or services from other sources.

To meet Participating Entities' needs, public notice of this RFP has been broadly published, including notification in the United States to each state-level procurement department for possible re-posting.

Proof of publication will be available at the conclusion of the solicitation process.

II. EQUIPMENT, PRODUCTS, AND SERVICES

A. SOLUTIONS-BASED SOLICITATION

This RFP and contract award process is a solutions-based solicitation; meaning that Sourcewell is seeking equipment, products, or services that meet the general requirements of the scope of this RFP and that are commonly desired or are required by law or industry standards.

B. REQUESTED EQUIPMENT, PRODUCTS, OR SERVICES

It is expected that Proposers will offer a wide array of equipment, products, or services at lower prices and with better value than what they would ordinarily offer to a single government entity, a school district, or a regional cooperative.

1. Sourcewell is seeking proposals for Playground and Water Play Equipment with Related Accessories and Services, including, but not to be limited to:

- a. Playground equipment, site furnishings, site amenities, and accessories;

- b. Water play and aquatic recreational structures and equipment, such as splash pads, waterparks, waterslides, playable fountains, ground sprays and activity towers;
 - c. Playground surfacing and fall protection, and water play and aquatic recreational surfacing; and,
 - d. Services related to the solutions described in subsections 1. a. - c. above, including design-build services, site assessment, site preparation, installation, maintenance or repair, and warranty programs. However, this solicitation should NOT be construed to include “service-only” solutions. Proposers may include related services to the extent that these solutions are complementary to the offering of the equipment and products being proposed.
2. This solicitation does not include those equipment, products, or services covered under categories included in contracts currently maintained by Sourcewell:
1. Athletic Surfacing with Related Materials, Supplies, Installation, and Services (RFP #060518)
 2. Athletic and Physical Education Equipment and Supplies with Related Accessories (RFP #071819)
 3. Flooring Materials, with Related Supplies and Services (RFP #080819)

Proposers may include related equipment, accessories, and services to the extent that these solutions are complementary to the equipment, products, or service(s) being proposed.

A Proposer may elect to offer a materials-only solution, a turn-key solution, or an alternative solution. Generally, a turn-key solution is most desirable to Sourcewell and its Participating Entities, however, it is not mandatory or required.

Generally, the solutions for Participating Entities are turn-key solutions, providing a combination of equipment, products and services, delivery, and installation to a properly operating status. However, equipment or products only solutions may be appropriate for situations where Participating Entities possess the ability, either in-house or through local third-party contractors, to properly install and bring to operation the equipment or products being proposed.

Sourcewell prefers vendors that provide a sole source of responsibility for the products and services provided under a resulting contract. If Proposer requires the use of dealers, resellers, or subcontractors to provide the products or services, the Proposal should address how the products or services will be provided to Participating Entities and describe the network of dealers, resellers, and/or subcontractors that will be available to serve Participating Entities under a resulting contract.

Sourcewell desires the broadest possible selection of equipment, products, and services being proposed over the largest possible geographic area and to the largest possible cross-section of Sourcewell current and future Participating Entities.

C. REQUIREMENTS

It is expected that Proposers have knowledge of all applicable industry standards, laws, and regulations and possess an ability to market and distribute the equipment, products, or services to Participating Entities.

1. Safety Requirements. All items proposed must comply with current applicable safety or regulatory standards or codes.
2. Deviation from Industry Standard. Deviations from industry standards must be identified with an explanation of how the equipment, products, and services will provide equivalent function, coverage, performance, and/or related services.
3. New Equipment and Products. Proposed equipment and products must be for new, current model; however, Proposer may offer certain close-out equipment or products if it is specifically noted in the Pricing proposal.
4. Delivered and operational. Unless clearly noted in the Proposal, equipment and products must be delivered to the Participating Entity as operational.
5. Warranty. All equipment, products, supplies, and services must be covered by a warranty that is the industry standard or better.

D. ANTICIPATED CONTRACT TERM

Sourcewell anticipates that the term of any resulting contract(s) will be four (4) years. Up to two one-year extensions may be offered based on the best interests of Sourcewell and its Participating Entities.

E. ESTIMATED CONTRACT VALUE AND USAGE

Based on past volume of similar contracts, the estimated annual value of all transactions from contracts resulting from this RFP are anticipated to be USD \$70 Million; therefore, proposers are expected to propose volume pricing. Sourcewell anticipates considerable activity under the contract(s) awarded from this RFP; however, sales and sales volume from any resulting contract are not guaranteed.

F. MARKETING PLAN

Proposer's sales force will be the primary source of communication with Participating Entities. The Proposer's Marketing Plan should demonstrate Proposer's ability to deploy a sales force or dealer network to Participating Entities, as well as Proposer's sales and service capabilities. It is expected that Proposer will promote and market any contract award.

G. ADDITIONAL CONSIDERATIONS

1. Contracts will be awarded to Proposers able to best meet the need of Participating Entities. Proposers should submit their complete line of equipment, products, or services that are applicable to the scope of this RFP.
2. Proposers should include all relevant information in its proposal, since Sourcewell cannot consider information that is not included in the Proposal. Sourcewell reserves the right to verify Proposer's information and may request clarification from a Proposer, including samples of the proposed equipment or products.
3. Depending upon the responses received in a given category, Sourcewell may need to organize responses into subcategories in order to provide the broadest coverage of the requested equipment, products, or services to Participating Entities. Awards may be based on a subcategory.
4. A Proposer's documented negative past performance with Sourcewell or its Participating Entities occurring under a previously awarded Sourcewell contract may be considered in the evaluation of a proposal.

III. PRICING

A. REQUIREMENTS

All proposed pricing must be:

1. Either Line-Item Pricing or Percentage Discount from Catalog Pricing, or a combination of these:
 - a. **Line-item Pricing** is pricing based on each individual product or services. Each line must indicate the Vendor's published "List Price," as well as the "Contract Price."
 - b. **Percentage Discount from Catalog or Category** is based on a percentage discount from a catalog or list price, defined as a published Manufacturer's Suggested Retail Price (MSRP) for the products or services. Individualized percentage discounts can be applied to any number of defined product groupings. Proposers will be responsible for providing and maintaining current published MSRP with Sourcewell, and this pricing must be included in its proposal and provided throughout the term of any Contract resulting from this RFP.
2. The Proposer's ceiling price (Ceiling price means that the proposed pricing will be considered as the highest price for which equipment, products, or services may be billed to a Participating Entity). However, it is permissible for vendors to sell at a price that is lower than the contracted price;
3. Stated in U.S. and Canadian dollars (as applicable); and
4. Clearly understood, complete, and fully describe the total cost of acquisition (e.g., the cost of the proposed equipment, products, and services delivered and operational for its intended purpose in the Participating Entity's location).

Proposers should clearly identify any costs that are NOT included in the proposed product or service pricing. This may include items such as installation, set up, mandatory training, or initial inspection. Include identification of any parties that impose such costs and their relationship to the Proposer. Additionally, Proposers should clearly describe any unique distribution and/or delivery methods or options offered in the Proposal.

B. ADMINISTRATIVE FEES

Proposers are expected to pay to Sourcewell an administrative fee in exchange for Sourcewell facilitating the resulting contracts. The administrative fee is normally calculated as a percentage of the total sales to Participating Entities for all contracted equipment, products, or services made during a calendar quarter, and is typically one percent (1%) to two percent (2%). In some categories, a flat fee may be an acceptable alternative.

IV. CONTRACT

Proposers awarded a contract will be required to execute a contract with Sourcewell (see attached template). Only those modifications the Proposer indicates in its proposal will be available for discussion. Much of the language in the Contract reflects Minnesota legal requirements and cannot be altered. Numerous and/or onerous exceptions that contradict Minnesota law may result in the Proposal being disqualified from further review and evaluation.

To request a modification to the Contract terms, conditions, or specifications, a Proposer must complete and submit the Exceptions to Terms, Conditions, or Specifications table, with all requested modifications, through the Sourcewell Procurement Portal at the time of submitting the Proposer's Proposal. Exceptions must:

1. Clearly identify the affected article and section, and
2. Clearly note what language is requested to be modified.

Unclear requests will be automatically denied.

Only those exceptions that have been accepted by Sourcewell will be included in the contract document provided to the awarded vendor for signature.

If a Proposer receives a contract award resulting from this solicitation it will have up to 30 days to sign and return the contract. After that time, at Sourcewell's sole discretion, the contract award may be revoked.

V. RFP PROCESS

A. PRE-PROPOSAL CONFERENCE

Sourcewell will hold an optional, non-mandatory pre-proposal conference via webcast on the date and time noted on page one of this RFP and on the Sourcewell Procurement Portal. The

purpose of this conference is to allow potential Proposers to ask questions regarding this RFP and Sourcewell's competitive contracting process. Information about the webcast will be sent to all entities that have registered for this solicitation opportunity through their Sourcewell Procurement Portal Vendor Account. Pre-proposal conference attendance is optional.

B. QUESTIONS REGARDING THIS RFP AND ORAL COMMUNICATION

Questions regarding this RFP must be submitted through the Sourcewell Procurement Portal. The deadline for submission of questions is found in the Solicitation Schedule and on the Sourcewell Procurement Portal. Answers to questions will be issued through an addendum to this RFP. Repetitive questions will be summarized into a single answer and identifying information will be removed from the submitted questions.

All questions, whether specific to a Proposer or generally related to the RFP, must be submitted using this process. Do not contact individual Sourcewell staff to ask questions or request information as this may disqualify the Proposer from responding to this RFP. Sourcewell will not respond to questions submitted after the deadline.

C. ADDENDA

Sourcewell may modify this RFP at any time prior to the proposal due date by issuing an addendum. Addenda issued by Sourcewell become a part of the RFP and will be delivered to potential Proposers through the Sourcewell Procurement Portal. Sourcewell accepts no liability in connection with the delivery of any addenda.

Before a proposal will be accepted through the Sourcewell Procurement Portal, all addenda, if any, must be acknowledged by the Proposer by checking the box for each addendum. It is the responsibility of the Proposer to check for any addenda that may have been issued up to the solicitation due date and time.

If an addendum is issued after a Proposer submitted its proposal, the Sourcewell Procurement Portal will WITHDRAW the submission and change the Proposer's proposal status to INCOMPLETE. The Proposer can view this status change in the "MY BIDS" section of the Sourcewell Procurement Portal Vendor Account. The Proposer is solely responsible to check the "MY BIDS" section of the Sourcewell Procurement Portal Vendor Account periodically after submitting its Proposal (and up to the Proposal due date). If the Proposer's Proposal status has changed to INCOMPLETE, the Proposer is solely responsible to:

- i) make any required adjustments to its proposal;
- ii) acknowledge the addenda; and
- iii) ensure the re-submitted proposal is received through the Sourcewell Procurement Portal no later than the Proposal Due Date and time shown in the Solicitation Schedule above.

D. PROPOSAL SUBMISSION

Proposer's complete proposal must be submitted through the Sourcewell Procurement Portal no later than the date and time specified in the Solicitation Schedule. Any other form of proposal submission, whether electronic, paper, or otherwise, will not be considered by Sourcewell. **Late proposals will not be considered.** It is the Proposer's sole responsibility to ensure that the proposal is received on time.

It is recommended that Proposers allow sufficient time to upload the proposal and to resolve any issues that may arise. The time and date that a Proposal is received by Sourcewell is solely determined by the Sourcewell Procurement Portal web clock.

In the event of problems with the Sourcewell Procurement Portal, follow the instructions for technical support posted in the portal. It may take up to twenty-four (24) hours to respond to certain issues.

Upon successful submission of a proposal, the Portal will automatically generate a confirmation email to the Proposer. If the Proposer does not receive a confirmation email, contact Sourcewell's support provider at support@bidsandtenders.ca.

To ensure receipt of the latest information and updates via email regarding this solicitation, or if the Proposer has obtained this solicitation document from a third party, the onus is on the Proposer to create a Sourcewell Procurement Portal Vendor Account and register for this solicitation opportunity.

Within the Procurement Portal, all proposals must be digitally acknowledged by an authorized representative of the Proposer attesting that the information contained in the proposal is true and accurate. By submitting a proposal, Proposer warrants that the information provided is true, correct, and reliable for purposes of evaluation for potential contract award. The submission of inaccurate, misleading, or false information is grounds for disqualification from a contract award and may subject the Proposer to remedies available by law.

E. GENERAL PROPOSAL REQUIREMENTS

Proposals must be:

- In substantial compliance with the requirements of this RFP or it will be considered nonresponsive and be rejected.
- Complete. A proposal will be rejected if it is conditional or incomplete.
- Submitted in English.
- Valid and irrevocable for 90 days following the Proposal Due Date.

Any and all costs incurred in responding to this RFP will be borne by the Proposer.

F. PROPOSAL WITHDRAWAL

Rev. 2/2020

Sourcewell RFP #010521
Playground and Water Play Equipment with Related Accessories and Services
Page 9

Prior to the proposal deadline, a Proposer may withdraw its proposal.

G. OPENING

The Opening of Proposals will be conducted electronically through the Sourcewell Procurement Portal. A list of all Proposers will be made publicly available in the Sourcewell Procurement Portal after the Proposal Due Date, but no later than the Opening time listed in the Solicitation Schedule.

To view the list of Proposers, verify that the Sourcewell Procurement Portal opportunities list search is set to “All” or “Closed.” The solicitation status will automatically change to “Closed” after the Proposal Due Date and Time.

VI. EVALUATION AND AWARD

A. EVALUATION

It is the intent of Sourcewell to award one or more contracts to responsive and responsible Proposer(s) offering the best overall quality, selection of equipment, products, and services, and price that meet the commonly requested specifications of Sourcewell and its Participating Entities. The award(s) will be limited to the number of Proposers that Sourcewell determines is necessary to meet the needs of Participating Entities. Factors to be considered in determining the number of contracts to be awarded in any category may include the following:

- The number of and geographic location of:
 - Proposers necessary to offer a comprehensive selection of equipment, products, or services for Participating Entities’ use.
 - A Proposer’s sales and service network to assure availability of product supply and coverage to meet Participating Entities’ anticipated needs.
- Total evaluation scores.
- The attributes of Proposers, and their equipment, products, or services, to assist Participating Entities achieve environmental and social requirements, preferences, and goals. Information submitted as part of a proposal should be as specific as possible when responding to the RFP. Do not assume Sourcewell’s knowledge about a specific vendor or product.

B. AWARD(S)

Award(s) will be made to the Proposer(s) whose proposal conforms to all conditions and requirements of the RFP, and consistent with the award criteria defined in this RFP.

Sourcewell may request written clarification of a proposal at any time during the evaluation process.

Proposal evaluation will be based on the following scoring criteria and the Sourcewell Evaluator Scoring Guide (available in the Sourcewell Procurement Portal):

Conformance to RFP Requirements	50
Financial Viability and Marketplace Success	75
Ability to Sell and Deliver Service	100
Marketing Plan	50
Value Added Attributes	75
Warranty	50
Depth and Breadth of Offered Equipment, Products, or Services	200
Pricing	<u>400</u>
TOTAL POINTS	1000

C. PROTESTS OF AWARDS

Any protest made under this RFP by a Proposer must be in writing, addressed to Sourcewell's Executive Director, and delivered to the Sourcewell office located at 202 12th Street NE, P.O. Box 219, Staples, MN 56479. The protest must be received no later than 10 calendar days' following Sourcewell's notice of contract award(s) or non-award and must be time stamped by Sourcewell no later than 4:30 p.m., Central Time.

A protest must include the following items:

- The name, address, and telephone number of the protester;
- The original signature of the protester or its representative;
- Identification of the solicitation by RFP number;
- A precise statement of the relevant facts;
- Identification of the issues to be resolved;
- Identification of the legal or factual basis;
- Any additional supporting documentation; and
- Protest bond in the amount of \$20,000, except where prohibited by law or treaty.

Protests that do not address these elements will not be reviewed.

D. RIGHTS RESERVED

This RFP does not commit Sourcewell to award any contract and a proposal may be rejected if it is nonresponsive, conditional, incomplete, conflicting, or misleading. Proposals that contain false statements or do not support an attribute or condition stated by the Proposer may be rejected.

Sourcewell reserves the right to:

- Modify or cancel this RFP at any time;
- Reject any and all proposals received;

- Reject proposals that do not comply with the provisions of this RFP;
- Select, for contracts or for discussion, a proposal other than that with the lowest cost;
- Independently verify any information provided in a Proposal;
- Disqualify any Proposer that does not meet the requirements of this RFP, is debarred or suspended by the United States or Canada, State of Minnesota, Participating Entity's state or province; has an officer, or other key personnel, who have been charged with a serious crime; or is bankrupt, insolvent, or where bankruptcy or insolvency are a reasonable prospect;
- Waive or modify any informalities, irregularities, or inconsistencies in the proposals received;
- Clarify any part of a proposal and discuss any aspect of the proposal with any Proposer; and negotiate with more than one Proposer;
- Award a contract if only one responsive proposal is received if it is in the best interest of Participating Entities; and
- Award a contract to one or more Proposers if it is in the best interest of Participating Entities.

E. DISPOSITION OF PROPOSALS

All materials submitted in response to this RFP will become property of Sourcewell and will become public record in accordance with Minnesota Statutes Section 13.591, after negotiations are complete. Sourcewell considers that negotiations are complete upon execution of a resulting contract. It is the Proposer's responsibility to clearly identify any data submitted that it considers to be protected. Proposer must also include a justification for the classification citing the applicable Minnesota law.

Sourcewell will not consider the prices submitted by the Proposer to be confidential, proprietary, or trade secret materials. Financial information, including financial statements, provided by a Proposer is not considered trade secret under the statutory definition.

The Proposer understands that Sourcewell will reject proposals that are marked confidential or nonpublic, either substantially or in their entirety.



11/12/2020

Addendum No. 1

Solicitation Number: RFP 010521

Solicitation Name: Playground and Water Play Equipment with Related Accessories and Services

Consider the following Questions and Answers to be part of the above-titled solicitation documents. The remainder of the documents remain unchanged.

Question 1:

We manufacture site amenities such as tables, bollards, benches, trash receptacles and more. We do not manufacture playgrounds or water play equipment. Based on this, can we bid as a provider of the equipment and installation of our product scope?

Answer 1:

Each proposer, in its discretion, will propose the equipment, products, and services that it deems to fall within Sourcewell's requested equipment, products, and services as described in RFP Section II. B (Requested Equipment, Products and Services).

Question 2:

Do we need to be able to provide all the items listed in the Requested Equipment, Products, or Services to respond to the RFP?

Answer 2:

Sourcewell is seeking "... the broadest possible selection of products/equipment and services being proposed ... to the largest possible cross-section of Sourcewell current and future Participating Entities." A proposer is not required to offer all possible products or services within the scope of the solicitation to be considered for award.

Only those products and services within the scope of the RFP will be included in any contract awarded by Sourcewell as a result of this solicitation. Proposals are evaluated based on the criteria stated in the RFP.

End of Addendum

Acknowledgement of this Addendum to RFP 010521 posted to the Sourcewell Procurement Portal on 11/12/2020, is required at the time of proposal submittal.



11/13/2020

Addendum No. 2

Solicitation Number: RFP 010521

Solicitation Name: Playground and Water Play Equipment with Related Accessories and Services

Consider the following Questions and Answers to be part of the above-titled solicitation documents. The remainder of the documents remain unchanged.

Question 1:

We are a manufacturer's representative in New York. Will that disqualify us from an award?

Answer 1:

A proposer is not required to cover every geographic region to be considered for award. Sourcewell is seeking solutions to serve the largest possible cross-section of current and potential Sourcewell Participating Entities. Refer to the RFP Article on Participating Entities and Use of the Resulting Contracts for details. Each proposal is evaluated based on the criteria stated in the RFP.

Question 2:

Are you looking for pour in place rubber surfacing? This will be hard to provide, as it is dependent on the equipment being used for fall height and location of the playground or park.

Answer 2:

Sourcewell utilizes a competitive, solutions-based solicitation approach that is not based on detailed specifications or finite quantities for our cooperative contract awards. A proposer can propose its entire line of equipment, products, and services falling within the scope of the RFP. Section II. B. of the RFP addresses the Requested Equipment, Products, or Services for this solicitation.

End of Addendum

Acknowledgement of this Addendum to RFP 010521 posted to the Sourcewell Procurement Portal on 11/13/2020, is required at the time of proposal submittal.



11/19/2020

Addendum No. 3

Solicitation Number: RFP 010521

Solicitation Name: Playground and Water Play Equipment with Related Accessories and Services

Consider the following Question and Answer to be part of the above-titled solicitation documents. The remainder of the documents remain unchanged.

Question 1:

Is this RFP the same as the previous Recreation and Playground Equipment, Accessories, and Supplies contract that expires on 4/14/21?

Answer 1:

The Sourcewell RFP is an open and competitive solicitation process. Each proposer, in its discretion, will propose the equipment, products, and services that it deems to fall within Sourcewell's requested equipment, products, and services as described in the RFP. Only those products within the scope of the RFP will be included in any contract awarded by Sourcewell as a result of the solicitation and each Proposal will be evaluated based on the criteria stated in the RFP. Each RFP is an opportunity independent of any other prior, current or future RFPs.

End of Addendum

Acknowledgement of this Addendum to RFP 010521 posted to the Sourcewell Procurement Portal on 11/19/2020, is required at the time of proposal submittal.



12/7/2020

Addendum No. 4

Solicitation Number: RFP 010521

Solicitation Name: Playground and Water Play Equipment with Related Accessories and Services

Consider the following Question and Answer to be part of the above-titled solicitation documents. The remainder of the documents remain unchanged.

Question 1:

We are a manufacturer with dealers and sales partners in many states and provinces. If awarded a contract, are we able to assign the contract to the local partner so that we do not need to be registered to collect tax in every state and province?

Answer 1:

Refer to RFP Section II. B. – Requested Equipment, Products, or Services – “... If Proposer requires the use of dealers, resellers, or subcontractors to provide the products or services, the Proposal should address how the products or services will be provided to Participating Entities and describe the network of dealers, resellers, and/or subcontractors that will be available to serve Participating Entities under a resulting contract.” It is left to the discretion of each proposer to determine the information or documentation necessary to best demonstrate their ability to serve Sourcewell Participating Entities and satisfy all the requirements of the RFP and the questionnaire tables. Proposals are evaluated based on the criteria stated in the RFP.

For additional detail on the requirement for awarded suppliers with respect to distributor/dealer networks, refer to Sourcewell Contract Template Section 2. C. – Dealers, Distributors, and/or Resellers.

End of Addendum

Acknowledgement of this Addendum to RFP 010521 posted to the Sourcewell Procurement Portal on 12/7/2020, is required at the time of proposal submittal.



12/18/2020

Addendum No. 5

Solicitation Number: RFP 010521

Solicitation Name: Playground and Water Play Equipment with Related Accessories and Services

Consider the following Question and Answer to be part of the above-titled solicitation documents. The remainder of the documents remain unchanged.

Question 1:

Is Table 5 required for submission? Will bid be considered incomplete without it?

Answer 1:

It is left to the discretion of each proposer to determine the documentation necessary to satisfy all the requirements included in the questionnaire tables. All proposals are evaluated based on the criteria as stated in the RFP.

End of Addendum

Acknowledgement of this Addendum to RFP 010521 posted to the Sourcewell Procurement Portal on 12/18/2020, is required at the time of proposal submittal.



12/22/2020

Addendum No. 6

Solicitation Number: RFP 010521

Solicitation Name: Playground and Water Play Equipment with Related Accessories and Services

Consider the following Questions and Answers to be part of the above-titled solicitation documents. The remainder of the documents remain unchanged.

Question 1:

Can we email our financial statements to a procurement representative for review rather than submitting in the portal?

Answer 1:

Proposer's complete proposal must be submitted through the Sourcewell Procurement Portal no later than the date and time specified in the Solicitation Schedule (RFP Section V. D.), and all relevant information should be included in the proposal (RFP Section II., G.) It is left to the discretion of each proposer to determine the method it deems best suited to submit its relevant information in a timely fashion through the Sourcewell Procurement Portal.

Question 2:

Are you selecting multiple suppliers for award?

Answer 2:

Refer to RFP Section VI. - EVALUATION AND AWARD, subsections A. and B., for information regarding Sourcewell's intent with respect to awards. No limit (floor or ceiling) on the number of awards has been imposed.

End of Addendum

Acknowledgement of this Addendum to RFP 010521 posted to the Sourcewell Procurement Portal on 12/22/2020, is required at the time of proposal submittal.

EXHIBIT C
BURKE QUOTATION #9479-1

**Remit Payment to:**

BCI Burke Company
PO Box 549
Fond du Lac, WI 54936-0549

Accepted and Approved

The undersigned hereby agrees to the charges listed in this quotation and to the attached terms and conditions. An order will be placed in accordance to this quotation unless otherwise noted.

Signed: _____ Dated: _____

Print Full Name & Title _____

Prepared on behalf of:

Quotation #	Date	Expiration Date	Est. Lead Time	Payment Terms	Prepared by		
9479-1	10/9/2023	11/9/2023		Net 30	Marianne Larson Contract Admin & Events Mgr		
Project Name			Proposal Number		Member ID Number		
Kissimmee Lakefront Park			999-173864-1		44339		
Site Contact		Billing		Shipping	Site Location		
TBA		Kissimmee Parks & Rec		Kissimmee Lakeside Park 201 Lakeview Drive Kissimmee, FL 34741	Kissimeee Lakeside Park 201 Lakeview Drive Kissimmee, FL 34741		
Call 24 Hours Before Delivery					County of Installation		
TBA					Osceola		
Product Code	Description				Qty	Price	Total Price
999-173864-1	BCI Burke Custom Playground structures for 5-12 and 2-5 age groups along with freestanding play features as indicated in proposal.				1	\$192,974.00	\$192,974.00
Discount	15% Sourcewell Discount per Burke Contract #010521-BUR				1	-\$28,946.10	-\$28,946.10
Discount	Special Move With Us Plus Discount for this special project				1	-\$100,000.00	-\$100,000.00
Installation	Professional installation of Burke equipment to include FREE supervision by Burke. Includes permitting.				1	\$40,000.00	\$40,000.00
Freight	2 truckloads via independent truckline				1	\$9,500.00	\$9,500.00
	* Must be delivered and installed by 12/18/23 and project completed for Burke's Sales Conference on January 12, 2024 * Kissimmee Parks & Recreation agrees to use temporary fencing to keep the playground area closed until the ribbon cutting ceremony on January 12, 2024 and refrain from sharing any images of the play equipment until after the opening * Collaborative Ribbon Cutting Ceremony to be held on January 12, 2024 * Kissimmee Park & Rec to responsible for removal of existing equipment, site preparation, Engineered Wood Fiber Surfacing, required storage/security, a telehandler capable of lifting equipment (weight approx. 1000 lb) 22 feet high, a boom lift capable of carrying a person up to 24 feet high and reaching out 15 feet, haul off of excess materials.						
				Total		\$113,527.90	



To place an order, please review and return this signed quote with a copy of your purchase order and tax exempt certificate, if applicable, to avoid state/local sales taxes.

Terms of Sale

Acceptance by either a signature or a purchase order based on this quotation indicates that you are in full agreement with all terms and conditions of this quotation including the following:



If a mutually agreed upon contract has been signed, those terms and conditions will supersede these terms and conditions.

Prices are stated in USD and are valid for 30 days. After 30 days, prices are subject to change without notice. Sales tax will be charged unless a copy of a valid Sales tax exemption certificate is presented with order.

Quoted lead times are based on normal production levels. Actual lead times may vary due to quantities ordered, seasonality and higher than normal production levels. Customer will receive an order acknowledgement which will state the anticipated ship date.

Specify all color selections in writing. Any discrepancies that arise due to oral color selections will be the responsibility of the customer. Custom colors, where available, would be an additional charge.

If customer is installing equipment, all equipment is to be installed per manufacturer's instructions and appropriate guidelines such as ASTM and CPSC.

Loss or Damage in Transit: A signed bill of lading is our receipt from a carrier that our shipment to you was complete and in good condition upon arrival. Before you sign, please check the Bill of Lading carefully when the shipment arrives to make sure nothing is missing and there are no damages. Freight terms are FOB Fond du Lac, WI and charges are predicated on all items being ordered and shipped at the same time. Therefore, once the shipment leaves our plant, we are no longer responsible for any damage, loss or shortage.

Installation, site work, building permits, engineered drawings, etc. are not included unless noted in quotation.

Installation Terms:

A. Burke Responsibilities (Applicable if Burke quoted)

Standard Services Include:

- Shipping Notification/Receiving Instructions
- Installation of Equipment and Materials
- Trash Clean Up (Not including cost for Dumpsters and Off-Site Trash Disposal unless noted)
- All Burke Structure shipments include a FREE Maintenance Kit (Includes Installation Booklet, Graffiti Remover, Tools and Touch Up Paint).

B. Optional Responsibilities (Must be clearly outlined in the applicable Burke quotation/contract):

- Removal of Existing Equipment.
- Underground Utility Check.
- Accept Delivery and Unload Equipment.
- Site Preparation and Grading, Drainage Systems, etc.
- Engineered Drawings for Purchased Equipment.
- Other Permits or Engineered Drawings (i.e. zoning permits, environmental permits, site surveys, etc.).
- Provision of Temporary Fencing.

*All other responsibilities must be clearly outlined in the applicable quotation/contract.

Customer Responsibilities (Applicable if BCI Burke is NOT quoting installation):

- Trash Disposal - Dumpsters or Off Site Disposal.
- Underground Utility Check.
- Accept Delivery and Unload Equipment.
- Provide Area for Storage and Staging.
- Provide Temporary Fencing.
- Secure Site and Equipment.
- Provide Access as Outlined below.

Building Permits

Building permits are the responsibility of the owner. If a building permit is required for your project, there will be an administrative, expeditor, and application fee included on project quote. This fee does not include the cost of the actual permit. Customer will be charged "actual permit" cost on final invoice.

NOTE - All zoning, planning, environmental, etc. permits and approvals are the responsibility of others.

Other Notes:

Access/Utilities. Access must be provided to the installation area for heavy trucks and equipment. Access of equipment and personnel is the obligation of the customer to provide until the project is fully completed. We will take every precaution to avoid damage, however any damage caused by the normal installation of our product, such as sod, concrete sidewalks, private underground utilities, etc., will be the responsibility of the customer, as will any additional costs associated with limiting damage such as providing plywood over sod for access. If access is not reasonably close to the jobsite, any additional costs incurred due to having to transport materials and/or supplies will be the responsibility of the customer.

Rock/Foreign Object Clause. Most installations require digging of holes and footing equipment in concrete below finished grade. Removal of existing ground covers such as asphalt, concrete, tan bark, sand, pea gravel, wood fiber, rubber matting, poured-in-place rubber surfacing, or any other material that interferes or delays the digging of holes, is the responsibility of others, unless otherwise noted. If excessive underground obstructions such as rock, coral, asphalt, concrete, pipes, drainage systems, root systems, water, or any other unknown obstructions are discovered, charges will be added to the original proposal.

Playground Surfacing. All playground equipment is to be installed in conjunction with safety surfacing per CPSC guidelines and ASTM standards. If the customer contracts for something contrary to the guidelines, they are accepting all responsibility for any liability and future litigation that may arise.

Burke Piggy Back K

Final Audit Report

2023-10-16

Created:	2023-10-16
By:	Andrea Campbell (andrea.campbell@kissimmee.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAjh4loFfPPDVHX2GRRvEkRhuZscpaDYk-

"Burke Piggy Back K" History

-  Document created by Andrea Campbell (andrea.campbell@kissimmee.gov)
2023-10-16 - 7:58:16 PM GMT
-  Document emailed to mlarson@bciburke.com for signature
2023-10-16 - 7:59:39 PM GMT
-  Email viewed by mlarson@bciburke.com
2023-10-16 - 8:00:32 PM GMT
-  Signer mlarson@bciburke.com entered name at signing as Marianne M Larson
2023-10-16 - 8:07:44 PM GMT
-  Document e-signed by Marianne M Larson (mlarson@bciburke.com)
Signature Date: 2023-10-16 - 8:07:46 PM GMT - Time Source: server
-  Agreement completed.
2023-10-16 - 8:07:46 PM GMT

**Remit Payment to:**

BCI Burke Company
PO Box 549
Fond du Lac, WI 54936-0549

Accepted and Approved

The undersigned hereby agrees to the charges listed in this quotation and to the attached terms and conditions. An order will be placed in accordance to this quotation unless otherwise noted.

Signed:

Dated: 10/11/23

Print Full Name & Title

STEVE LACKEY, Perm. Rec. Director

Prepared on behalf of:

Quotation #	Date	Expiration Date	Est. Lead Time	Payment Terms	Prepared by
9479-1	10/9/2023	11/9/2023		Net 30	Marianne Larson Contract Admin & Events Mgr

Project Name	Proposal Number	Member ID Number
Kissimmee Lakefront Park	999-173864-1	44339

Site Contact	Billing	Shipping	Site Location
TBA	Kissimmee Parks & Rec	Kissimmee Lakeside Park 201 Lakeview Drive Kissimmee, FL 34741	Kissimmee Lakeside Park 201 Lakeview Drive Kissimmee, FL 34741
Call 24 Hours Before Delivery			County of Installation
TBA			Osceola

Product Code	Description	Qty	Price	Total Price
999-173864-1	BCI Burke Custom Playground structures for 5-12 and 2-5 age groups along with freestanding play features as indicated in proposal.	1	\$192,974.00	\$192,974.00
Discount	15% Sourcewell Discount per Burke Contract #010521-BUR	1	-\$28,946.10	-\$28,946.10
Discount	Special Move With Us Plus Discount for this special project	1	-\$100,000.00	-\$100,000.00
Installation	Professional installation of Burke equipment to include FREE supervision by Burke. Includes permitting.	1	\$40,000.00	\$40,000.00
Freight	2 truckloads via independent truckline	1	\$9,500.00	\$9,500.00

* Must be delivered and installed by 12/18/23 and project completed for Burke's Sales Conference on January 12, 2024
* Kissimmee Parks & Recreation agrees to use temporary fencing to keep the playground area closed until the ribbon cutting ceremony on January 12, 2024 and refrain from sharing any images of the play equipment until after the opening
* Collaborative Ribbon Cutting Ceremony to be held on January 12, 2024
* Kissimmee Park & Rec to responsible for removal of existing equipment, site preparation, Engineered Wood Fiber Surfacing, required storage/security, a telehandler capable of lifting equipment (weight approx. 1000 lb) 22 feet high, a boom lift capable of carrying a person up to 24 feet high and reaching out 15 feet, haul off of excess materials.

**Total****\$113,527.90**

To place an order, please review and return this signed quote with a copy of your purchase order and tax exempt certificate, if applicable, to avoid state/local sales taxes.

Terms of Sale

Acceptance by either a signature or a purchase order based on this quotation indicates that you are in full agreement with all terms and conditions of this quotation including the following:

bciburke.com | 800.266.1250

An ISO 9001 ISO 14001 Certified Company

Form 060-07

Rev. 7/12/2023

Page 212 of 631



including:

If a mutually agreed upon contract has been signed, those terms and conditions will supersede these terms and conditions.

Prices are stated in USD and are valid for 30 days. After 30 days, prices are subject to change without notice. Sales tax will be charged unless a copy of a valid Sales tax exemption certificate is presented with order.

Quoted lead times are based on normal production levels. Actual lead times may vary due to quantities ordered, seasonality and higher than normal production levels. Customer will receive an order acknowledgement which will state the anticipated ship date.

Specify all color selections in writing. Any discrepancies that arise due to oral color selections will be the responsibility of the customer. Custom colors, where available, would be an additional charge.

If customer is installing equipment, all equipment is to be installed per manufacturer's instructions and appropriate guidelines such as ASTM and CPSC.

Loss or Damage in Transit: A signed bill of lading is our receipt from a carrier that our shipment to you was complete and in good condition upon arrival. Before you sign, please check the Bill of Lading carefully when the shipment arrives to make sure nothing is missing and there are no damages. Freight terms are FOB Fond du Lac, WI and charges are predicated on all items being ordered and shipped at the same time. Therefore, once the shipment leaves our plant, we are no longer responsible for any damage, loss or shortage.

Installation, site work, building permits, engineered drawings, etc. are not included unless noted in quotation.

Installation Terms:

A. Burke Responsibilities (Applicable if Burke quoted)

Standard Services Include:

- Shipping Notification/Receiving Instructions
- Installation of Equipment and Materials
- Trash Clean Up (Not including cost for Dumpsters and Off-Site Trash Disposal unless noted)
- All Burke Structure shipments include a FREE Maintenance Kit (Includes Installation Booklet, Graffiti Remover, Tools and Touch Up Paint).

B. Optional Responsibilities (Must be clearly outlined in the applicable Burke quotation/contract):

- Removal of Existing Equipment.
- Underground Utility Check.
- Accept Delivery and Unload Equipment.
- Site Preparation and Grading, Drainage Systems, etc.
- Engineered Drawings for Purchased Equipment.
- Other Permits or Engineered Drawings (i.e. zoning permits, environmental permits, site surveys, etc.).
- Provision of Temporary Fencing.

*All other responsibilities must be clearly outlined in the applicable quotation/contract.

Customer Responsibilities (Applicable if BCI Burke is NOT quoting installation):

- Trash Disposal - Dumpsters or Off Site Disposal.
- Underground Utility Check.
- Accept Delivery and Unload Equipment.
- Provide Area for Storage and Staging.
- Provide Temporary Fencing.
- Secure Site and Equipment.
- Provide Access as Outlined below.

Building Permits

Building permits are the responsibility of the owner. If a building permit is required for your project, there will be an administrative, expeditor, and application fee included on project quote. This fee does not include the cost of the actual permit. Customer will be charged "actual permit" cost on final invoice.

NOTE - All zoning, planning, environmental, etc. permits and approvals are the responsibility of others.

Other Notes:

Access/Utilities. Access must be provided to the installation area for heavy trucks and equipment. Access of equipment and personnel is the obligation of the customer to provide until the project is fully completed. We will take every precaution to avoid damage, however any damage caused by the normal installation of our product, such as sod, concrete sidewalks, private underground utilities, etc., will be the responsibility of the customer, as will any additional costs associated with limiting damage such as providing plywood over sod for access. If access is not reasonably close to the jobsite, any additional costs incurred due to having to transport materials and/or supplies will be the responsibility of the customer.

Rock/Foreign Object Clause. Most installations require digging of holes and footing equipment in concrete below finished grade. Removal of existing ground covers such as asphalt, concrete, tan bark, sand, pea gravel, wood fiber, rubber matting, poured-in-place rubber surfacing, or any other material that interferes or delays the digging of holes, is the responsibility of others, unless otherwise noted. If excessive underground obstructions such as rock, coral, asphalt, concrete, pipes, drainage systems, root systems, water, or any other unknown obstructions are discovered, charges will be added to the original proposal.

Playground Surfacing. All playground equipment is to be installed in conjunction with safety surfacing per CPSC guidelines and ASTM standards. If the customer contracts for something contrary to the guidelines, they are accepting all responsibility for any liability and future litigation that may arise.

ITEM 7.E

State of Florida Mutual Aid Agreement (Contract 20240037)

Request

Approval to adopt the Statewide Mutual Aid Agreement between the City and the Florida Division of Emergency Management to receive and/or provide assistance during emergencies.

Explanation

The State of Florida Emergency Management Action, Chapter 252, authorizes the State of Florida and its political subdivisions to provide emergency aid and assistance in the event of a disaster or emergency.

The statutes also authorize the State to coordinate the provision of any equipment, services, or facilities owned or organized by the State or its political subdivisions for use in the affected area upon the request of the duly constituted authority of the area.

This agreement would provide the City of Kissimmee to request assistance for resources when a local incident has expanded beyond the response capabilities of the organization. Additionally, it would allow the City to provide assistance and resources to other political subdivisions in a disaster or emergency.

Recommendation

Adoption of the Statewide Mutual Aid Agreement between the City of Kissimmee and the Florida Division of Emergency Management

REQUESTED CITY COMMISSION ACTION:

Approve

Department: City Manager

Presenter:

Attachment(s):

1. Statewide Mutual Aid Agreement (S)



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

STATEWIDE MUTUAL AID AGREEMENT - 2023

This Agreement is an acknowledgment of receipt by the Florida Division of Emergency Management (“the Division”) and the local government (“Participating Party”) signing this Agreement. Execution of this agreement replaces all previous iterations and is active until a new agreement is drafted and requested by The Division.

This Agreement is based on the existence of the following conditions:

- A. The State of Florida is vulnerable to a wide range of emergencies and disasters that are likely to cause the disruption of essential services and the destruction of the infrastructure needed to deliver those services.
- B. Such emergencies and disasters often exceed the emergency response and recovery capabilities of any one county or local government.
- C. Such incidents may also give rise to unusual and unanticipated physical and technical needs which a local government cannot meet with existing resources, but that other local governments within the State of Florida may be able to provide.
- D. The Emergency Management Act, chapter 252, *Florida Statutes*, provides each local government of the state the authority to develop and enter into mutual aid agreements within the state for reciprocal emergency aid in case of emergencies too extensive to be dealt with unassisted, and through such agreements ensure the timely reimbursement of costs incurred by the local governments which render such assistance.
- E. Pursuant to chapter 252.32, *Florida Statutes*, the Division renders mutual aid among the political subdivisions of the state to carry out emergency management functions and responsibilities.
- F. Pursuant to chapter 252, *Florida Statutes*, the Division has the authority to coordinate and direct emergency management assistance between local governments and concentrate available resources where needed.

Based on the existence of the foregoing conditions, the Parties agree to the following articles:

ARTICLE I: DEFINITIONS

As used in this Agreement, the following expressions shall have the following meanings:

- A. The “Agreement” is this Agreement, which shall be referred to as the Statewide Mutual Aid Agreement (“SMAA”).



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- B. The “Division” is the Florida Division of Emergency Management.
- C. A “Requesting Party” to this Agreement is a Participating Party who requests assistance under this agreement.
- D. An “Assisting Party” to this Agreement is a Participating Party who provides assistance to a Requesting Party under this agreement.
- E. The “Period of Assistance” is the time during which an Assisting Party renders assistance to a Requesting Party under this agreement and includes the time necessary for the resources and personnel of the Assisting Party to travel to the place specified by the Requesting Party and the time necessary to return to their place of origin.
- F. A “Mission” is a documented emergency response activity performed during a Period of Assistance, usually in reference to one operational function or activity.
- G. A “local government” is any educational district, special district, or any entity that is a “local governmental entity” within the meaning of section 11.45(1)(g), *Florida Statutes*.
- H. An “educational district” is any school district within the meaning of section 1001.30, *Florida Statutes*, and any Florida College System Institution or State University within the meaning of section 1000.21, *Florida Statutes*.
- I. A “special district” is any local or regional governmental entity which is an independent special district within the meaning of section 189.012(3), *Florida Statutes*, established by local, special, or general act, or by rule, ordinance, resolution, or interlocal agreement.
- J. A “tribal council” is the respective governing bodies of the Seminole Tribe of Florida and Miccosukee Tribe of Indians recognized as special improvement district by section 285.18(1), *Florida Statutes*.
- K. An “interlocal agreement” is any agreement between local governments within the meaning of section 163.01(3)(a), *Florida Statutes*.
- L. A “Resource Support Agreement” as used in this Agreement refers to a supplemental agreement of support between a Requesting Party and an Assisting Party.
- M. “Proof of work” as used in this Agreement refers to original and authentic documentation of a single individual or group of individuals’ emergency response activity at a tactical level.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- N. "Proof of payment" as used in this Agreement refers to original and authentic documentation of an emergency response expenditure made by an Assisting Party.
- O. A "Reimbursement Package" as used in this Agreement refers to a full account of mission response documentation supported by proof of work and proof of payment.
- P. Any expressions not assigned definitions elsewhere in this Agreement shall have the definitions assigned them by the Emergency Management Act, Chapter 252, *Florida Statutes*.

ARTICLE II: APPLICABILITY OF THE AGREEMENT

Any Participating Party, including the Division, may request assistance under this Agreement for a "major disaster" or "catastrophic disaster" as defined in section 252.34, *Florida Statutes*, minor disasters, and other such emergencies as lawfully determined by a Participating Party.

ARTICLE III: INVOCATION OF THE AGREEMENT

In the event of an emergency or anticipated emergency, a Participating Party may request assistance under this Agreement from any other Participating Party or the Division if, in the judgement of the Requesting Party, its own resources are inadequate to meet the needs of the emergency or disaster.

- A. Any request for assistance under this Agreement may be oral, but within five (5) calendar days must be confirmed in writing by the Requesting Party. All requests for assistance under this Agreement shall be transmitted by the Requesting Party to another Participating Party or the Division. If the Requesting Party transmits its request for Assistance directly to a Participating Party other than the Division, the Requesting Party and Assisting Party shall keep the Division advised of their activities.
- B. The Division shall relay any requests for assistance under this Agreement to such other Participating Parties as it may deem appropriate and coordinate the activities of the Assisting Parties to ensure timely assistance to the Requesting Party. All such activities shall be carried out in accordance with the State's Comprehensive Emergency Management Plan.

ARTICLE IV: RESPONSIBILITIES OF REQUESTING PARTIES

To the extent practicable, all Requesting Parties shall provide the following information to their respective county emergency management agency, the Division, and the intended Assisting Party or Parties. In providing such information, Requesting Parties should utilize Section I of the



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

Resource Support Agreement (RSA) Form, available via the [Division approved documents SharePoint site](#)¹.

- A. A description of the Mission to be performed by the Assisting Party;
- B. A description of the resources and capabilities needed to complete the Mission successfully;
- C. The location, date, and time personnel and resources from the Assisting Party should arrive at the incident site, staging area, facility, or other location designated by the Requesting Party;
- D. A description of the health, safety, and working conditions expected for deploying personnel;
- E. Lodging and meal availability;
- F. Any logistical requirements;
- G. A description of any location or facility outside the territorial jurisdiction of the Requesting Party needed to stage incoming resources and personnel;
- H. The location date, and time for personnel of the Requesting Party to meet and receive the personnel and equipment of the Assisting Party; and
- I. A technical description of any communications equipment needed to ensure effective information sharing between the Requesting Party, any Assisting Parties, and all relevant responding entities.

ARTICLE V: RESPONSIBILITIES OF ASSISTING PARTIES

Each Party shall render assistance under this Agreement to any Requesting Party to the extent practicable that its personnel, equipment, resources, and capabilities can render assistance. If upon receiving a request for assistance under this Agreement a Party determines that it has the capacity to render some or all of such assistance, it shall provide the following information without delay to the Requesting Party, the Division, and the Assisting Party's County emergency management agency. In providing such information, the Assisting Party should utilize the Section II of the Resource Support Agreement (RSA) Form, available via the [Division approved documents SharePoint site](#).

¹ FDEM approved documents such as activity logs and mutual aid forms can be found at:
https://portal.floridadisaster.org/projects/FROC/FROC_Documents/Forms/AllItems.aspx?View=%7B6F3CF7BD%2DC0A4%2D4BE2%2DB809%2DC8009D7D0686%7D



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- A. A description of the personnel, equipment, supplies, services and capabilities it has available, together with a description of the qualifications of any skilled personnel;
- B. An estimate of the time such personnel, equipment, supplies, and services will continue to be available;
- C. An estimate of the time it will take to deliver such personnel, equipment, supplies, and services to the location(s) specified by the Requesting Party;
- D. A technical description of any communications and telecommunications equipment available for timely communications with the Requesting Party and other Assisting Parties;
- E. The names and contact information of all personnel whom the Assisting Party has designated as team leaders or supervisors; and
- F. An estimated cost for the provision of assistance.

ARTICLE VI: RENDITION OF ASSISTANCE

The Requesting Party shall afford the emergency response personnel of all Assisting Parties, while operating within the jurisdictional boundaries of the Requesting Party, the same powers, duties, rights, and privileges, except that of arrest unless specifically authorized by the Requesting Party, as are afforded the equivalent emergency response personnel of the Requesting Party. Emergency response personnel of the Assisting Party will remain under the command and control of the Assisting Party, but during the Period of Assistance, the resources and responding personnel of the Assisting Party will perform response activities under the operational and tactical control of the Requesting Party.

- A. Unless otherwise agreed upon between the Requesting and Assisting Party, the Requesting Party shall be responsible for providing food, water, and shelter to the personnel of the Assisting Party. For Missions performed in areas where there are insufficient resources to support responding personnel and equipment throughout the Period of Assistance, the Assisting Party shall, to the fullest extent practicable, provide their emergency response personnel with the equipment, fuel, supplies, and technical resources necessary to make them self-sufficient throughout the Period of Assistance. When requesting assistance, the Requesting Party may specify that Assisting Parties send only self-sufficient personnel and resources but must specify the length of time self-sufficiency should be maintained.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- B. Unless the Requesting Party has specified the contrary, it shall, to the fullest extent practicable, coordinate all communications between its personnel and the responding personnel of the Assisting Parties, and shall determine and share the frequencies and other technical specifications of all communications equipment to be used, as appropriate, with the deployed personnel of the Assisting Parties.
- C. Personnel of the Assisting Party who render assistance under this Agreement shall receive the usual wages, salaries, and other compensation as are normally afforded to personnel for emergency response activities within their home jurisdiction, and shall have all the immunities, rights, interests, and privileges applicable to their normal employment. If personnel of the Assisting Party hold local licenses or certifications limited to the jurisdiction of issue, then the Requesting Party shall recognize and honor those licenses or certifications for the duration of the Period of Assistance.

ARTICLE VII: REIMBURSEMENT

After the Period of Assistance has ended, the Assisting Party shall have 45 days to develop a full reimbursement package for services rendered and resources supplied during the Period of Assistance. All expenses claimed to the Requesting Party must have been incurred in direct response to the emergency as requested by the Requesting Party and must be supported by proof of work and proof of payment.

To guide the proper documentation and accountability of expenses, the Assisting Party should utilize the Claim Summary Form, available via the [Division approved documents SharePoint site](#) as a guide and summary of expense to collect information to then be formally submitted for review by the Requesting Party.

To receive reimbursement for assistance provided under this agreement, the Assisting Party shall provide, at a minimum, the following supporting documentation to the Requesting Party unless otherwise agreed upon between the Requesting and Assisting Parties:

- A. A complete and authentic description of expenses incurred by the Assisting Party during the Period of Assistance;
- B. Copy of a current and valid Internal Revenue Service W-9 Form;
- C. Copies of all relevant payment and travel policies in effect during the Period of Assistance;
- D. Daily personnel activity logs demonstrating emergency response activities performed for all time claimed (for FDEM reimbursement Division approved activity logs will be required for personnel activity claims);



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- E. Official payroll and travel reimbursement records for all claimed personnel expenses;
- F. Neat and comprehensive fringe benefit calculations for each position class or category of claimed personnel;
- G. Written justification for all additional expenses/purchases incurred during the Period of Assistance;
- H. Proof of payment for additional/miscellaneous expenses incurred during the Period of Assistance
- I. Equipment activity logs demonstrating equipment use and operation in support of emergency response activities for all time claimed (for FDEM reimbursement Division approved forms will be required for equipment activity claims);
- J. Proof of reimbursement to all employees who incurred emergency response expenses with personal money;
- K. Justification for equipment repair expenses; and
- L. Copies of any applicable supporting agreements or contracts with justification.

If a dispute or disagreement regarding the eligibility of any expense arises, the Requesting Party, Assisting Party, or the Division may elect binding arbitration. If binding arbitration is elected, the Parties must select as an arbitrator any elected official of another Participating Party, or any other official of another Participating Party whose normal duties include emergency management, and the other Participating Party shall also select such an official as an arbitrator, and the arbitrators thus chosen shall select another such official as a third arbitrator.

The three (3) arbitrators shall convene by teleconference or videoconference within thirty (30) calendar days to consider any documents and any statements or arguments by the Division, the Requesting Party, or the Assisting Party concerning the protest, and shall render a decision in writing not later than ten (10) business days after the close of the hearing. The decision of a majority of the arbitrators shall bind the parties and shall be final.

If the Participating Parties do not elect binding arbitration, this agreement and any disputes arising thereunder shall be governed by the laws of the State of Florida and venue shall be in Leon County, Florida. Nothing in this Agreement shall be construed to create an employer-employee relationship or a partnership or joint venture between the participating parties. Furthermore, nothing contained herein shall constitute a waiver by either Party of its sovereign immunity or the provisions of section 768.28, Florida Statutes. Nothing herein shall be construed as consent by either Party to be sued by third parties.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



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ARTICLE VIII: COST ELIGIBLE FOR REIMBURSEMENT

The costs incurred by the Assisting Party under this Agreement shall be reimbursed as needed to make the Assisting Party whole to the fullest extent practicable.

- A. Employees of the Assisting Party who render assistance under this Agreement shall be entitled to receive from the Assisting Party all their usual wages, salaries, and any and all other compensation for mobilization, hours worked, and demobilization. Such compensation shall include any and all contributions for insurance and retirement, and such employees shall continue to accumulate seniority at the usual rate. As between the employees and the Assisting Party, the employees shall have all the duties, responsibilities, immunities, rights, interests, and privileges incident to their usual employment. The Requesting Party shall reimburse the Assisting Party for these costs of employment.
- B. The costs of equipment supplied by the Assisting Party shall be reimbursed at the rental rate established in FEMA' s Schedule of Equipment, or at any other rental rate agreed to by the Requesting Party. In order to be eligible for reimbursement, equipment must be in actual operation performing eligible work. The labor costs of the operator are not included in the rates and should be approved separately from equipment costs. The Assisting Party shall pay for fuels, other consumable supplies, and repairs to its equipment as needed to keep the equipment in a state of operational readiness. Rent for the equipment shall be deemed to include the cost of fuel and other consumable supplies, maintenance, service, repairs, and ordinary wear and tear. With the consent of the Assisting Party, the Requesting Party may provide fuels, consumable supplies, maintenance, and repair services for such equipment at the site. In that event, the Requesting Party may deduct the actual costs of such fuels, consumable supplies, maintenance, and services from the total costs otherwise payable to the Assisting Party. If the equipment is damaged while in use under this Agreement and the Assisting Party receives payment for such damage under any contract of insurance, the Requesting Party may deduct such payment from any item or items billed by the Assisting Party for any of the costs for such damage that may otherwise be payable.
- C. The Requesting Party shall pay the total costs for the use and consumption of any and all consumable supplies delivered by the Assisting Party for the Requesting Party under this Agreement. In the case of perishable supplies, consumption shall be deemed to include normal deterioration, spoilage, and damage notwithstanding the exercise of reasonable care in its storage and use. Supplies remaining unused shall be returned to the Assisting Party in usable condition upon the close of the Period of Assistance, and the Requesting Party may deduct the cost of such returned supplies from the total costs billed by the Assisting Party for such supplies. If the Assisting Party agrees, the Requesting Party may also replace any and all used consumable supplies with like



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

supplies in usable condition and of like grade, quality and quantity within the time allowed for reimbursement under this Agreement.

- D. The Assisting Party shall keep records to document all assistance rendered under this Agreement. Such records shall present information sufficient to meet the audit requirements specified in the regulations of FEMA and any applicable circulars issued by the State of Florida. Upon reasonable notice, the Assisting Party shall make its records available the Requesting Party for inspection or duplication between 8:00 a.m. and 5:00 p.m. on all weekdays, except for official holidays.

ARTICLE IX: INSURANCE

Each Participating Party shall determine for itself what insurance to procure, if any. With the exceptions in this Article, nothing in this Agreement shall be construed to require any Participating Party to procure insurance.

- A. Each Participating Party shall procure employers' insurance meeting the requirements of the Workers' Compensation Act, as amended, affording coverage for any of its employees who may be injured while performing any activities under the authority of this Agreement, and shall be provided to each Participating Party.
- B. Any Participating Party that elects additional insurance affording liability coverage for any activities that may be performed under the authority of this Agreement shall be provided to each Participating Party.
- C. Subject to the limits of such liability insurance as any Participating Party may elect to procure, nothing in this Agreement shall be construed to waive, in whole or in part, any immunity any Participating Party may have in any judicial or quasi-judicial proceeding.
- D. Each Participating Party which renders assistance under this Agreement shall be deemed to stand in the relation of an independent contractor to all other Participating Parties and shall not be deemed to be the agent of any other Participating Party.
- E. Nothing in this Agreement shall be construed to relieve any Participating Party of liability for its own conduct and that of its employees.
- F. Nothing in this Agreement shall be construed to obligate any Participating Party to indemnify any other Participating Party from liability to third parties.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

ARTICLE X: GENERAL REQUIREMENTS

Notwithstanding anything to the contrary elsewhere in this Agreement, all Participating Parties shall be subject to the following requirements in the performance of this Agreement:

- A. All Participating Parties shall allow public access to all documents, papers, letters, or other materials subject to the requirements of the Public Records Act, as amended, and made or received by any Participating Party in conjunction with this Agreement.
- B. No Participating Party may hire employees in violation of the employment restrictions in the Immigration and Nationality Act, as amended.
- C. No costs reimbursed under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Legislature of the State of Florida or any of its agencies.
- D. Any communication to the Division under this Agreement shall be sent via either email, the Division of Emergency Managements Enterprise System (DEMES), or mail to the Response Bureau, Florida Division of Emergency Management, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.
- E. Any communication to a Participating Party shall be sent to the official or officials specified by that Participating Party. For the purpose of this section, any such communication may be sent by the U.S. Mail, e-mail, or other electronic platforms.

ARTICLE XI: EFFECTS OF AGREEMENT

Upon its execution by a Participating Party, this Agreement shall have the following effect with respect to that Participating Party:

- A. The execution of this Agreement by any Participating Party which is a signatory to the Statewide Mutual Aid Agreement of 1994 shall terminate the rights, interests, duties, responsibilities, and obligations of that Participating Party under the Statewide Mutual Aid Agreement of 1994, but such termination shall not affect the liability of the Participating Party for the reimbursement of any costs due under the Statewide Mutual Aid Agreement of 1994, regardless of whether such costs are billed or unbilled.
- B. The execution of this Agreement by any Participating Party which is a signatory to the Public Works Mutual Aid Agreement shall terminate the rights, interests, duties, responsibilities and obligations of that Participating Party under the Public Works Mutual Aid Agreement, but such termination shall not affect the liability of the Participating Party for the reimbursement of any costs due under the Public Works Mutual Aid Agreement,



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

regardless of whether such costs are billed or unbilled.

- C. Upon the activation of this Agreement by the Requesting Party, this Agreement shall supersede any other existing agreement between it and any Assisting Party to the extent that the former may be inconsistent with the latter.
- D. Upon its execution by any Participating Party, this Agreement will continue in effect for one (1) year from its date of execution by that Participating Party, and it shall automatically renew each year after its execution, unless within sixty (60) calendar days before the renewal date the Participating Party notifies the Division, in writing, of its intent to withdraw from the Agreement.
- E. The Division shall transmit any amendment to this Agreement by sending the amendment to all Participating Parties not later than five (5) business days after its execution by the Division. Such amendment shall take effect not later than sixty (60) calendar days after the date of its execution by the Division and shall then be binding on all Participating Parties. Notwithstanding the preceding sentence, any Participating Party who objects to the amendment may withdraw from the Agreement by notifying the Division in writing of its intent to do so within that time in accordance with section E of this Article.
- F. A Participating Party may rescind this Agreement at will after providing the other Participating Party a written SMAA withdrawal notice. Such notice shall be provided at least 30 days prior to the date of withdrawal. This 30-day withdrawal notice must be: written, signed by an appropriate authority, duly authorized on the official letterhead of the Participating Party, and must be sent via email, the Division of Emergency Managements Enterprise System (DEMES), or certified mail.

ARTICLE XII: INTERPRETATION AND APPLICATION OF AGREEMENT

The interpretation and application of this Agreement shall be governed by the following conditions:

- A. The obligations and conditions resting upon the Participating Parties under this Agreement are not independent, but dependent.
- B. Time shall be of the essence of this Agreement, and of the performance of all conditions, obligations, duties, responsibilities, and promises under it.
- C. This Agreement states all the conditions, obligations, duties, responsibilities, and promises of the Participating Parties with respect to the subject of this Agreement, and there are no conditions, obligations, duties, responsibilities, or promises other than those expressed in this Agreement.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- D. If any sentence, clause, phrase, or other portion of this Agreement is ruled unenforceable or invalid, every other sentence, clause, phrase, or other portion of the Agreement shall remain in full force and effect, it being the intent of the Division and the other Participating Parties that every portion of the Agreement shall be severable from every other portion to the fullest extent practicable. The Division reserves the right, at its sole and absolute discretion, to change, modify, add, or remove portions of any sentence, clause, phrase, or other portion of this Agreement that conflicts with state law, regulation, or policy. If the change is minor, the Division will notify the Participating Party of the change and such changes will become effective immediately; therefore, please check these terms periodically for changes. If the change is substantive, the Participating Parties may be required to execute the Agreement with the adopted changes. Any continued or subsequent use of this Agreement following the posting of minor changes to this Agreement shall signify implied acceptance of such changes.
- E. The waiver of any obligation or condition in this Agreement by a Participating Party shall not be construed as a waiver of any other obligation or condition in this Agreement.

NOTE: This iteration of the State of Florida Statewide Mutual Aid Agreement will replace all previous versions.

The Division shall provide reimbursement to Assisting Parties in accordance with the terms and conditions set forth in this Article for missions performed at the direct request of the Division. Division reimbursement eligible expenses must be in direct response to the emergency as requested by the State of Florida. All required cost estimations and claims must be executed through the DEMES Mutual Aid Portal and assisting agencies must use all required [FDEM forms](#) for documentation and cost verification. If a Requesting Party has not forwarded a request through the Division, or if an Assisting Party has rendered assistance without being requested to do so by the Division, the Division shall not be liable for the costs of any such assistance.

FDEM reserves the right to deny individual reimbursement requests if deemed to not be in direct response to the incident for which asset was requested.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the date specified below:



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

FOR ADOPTION BY A CITY

STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT

By: _____ Date: _____

Kevin Guthrie, Executive Director or
Ian Guidicelli, Authorized Designee

ATTEST:
CITY CLERK

CITY OF _____
STATE OF FLORIDA

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Approved as to Form:

By: _____

City Attorney



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

FOR ADOPTION BY A COMMUNITY DEVELOPMENT DISTRICT

STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT

By: _____ Date: _____

Kevin Guthrie, Executive Director or
Ian Guidicelli, Authorized Designee

COMMUNITY DEVELOPMENT DISTRICT, STATE OF FLORIDA

By: _____ By: _____

Title: _____ Title: _____

Date: _____

Approved as to Form:

By: _____

Attorney for District

ITEM 7.F

Commission Ratification of the Collective Bargaining Agreement (CBA) with the International Association of Firefighters, Local 4208 (IAFF) Representing the Rank and File and Supervisory Bargaining Units

Request

Commission approval and ratification of the Collective Bargaining Agreement between the City of Kissimmee and the International Association of Firefighters (IAFF), Local 4208, representing the Rank and File Unit (Cert #1400) and Supervisory unit (Cert #1401) effective October 1, 2022 to September 30, 2024.

Explanation

The Collective Bargaining Agreement (CBA) with the City and Kissimmee Professional Firefighters Local 4208 expired September 30, 2022. Negotiations between the respective parties' bargaining team members began in June 2022, and the parties met regularly in an effort to come to mutually agreeable terms for the CBA. The parties tentatively agreed to all matters of the contract in late April 2023, when the Union brought matters forward that are not part of the CBA and are part of Department SOGs.

Unfortunately, on July 6, 2023, the Union declared an impasse after the parties could not come to an agreement regarding continued lung function testing, which is conducted annually as part of the firefighter's respiratory protection program. The Union wanted the City to discontinue this testing which has been the department's past practice for over 25 years, and every other agency in Central Florida conducts the same type of testing.

Although an impasse was declared, the Union and the City continued to negotiate the terms of the new CBA. On September 22, 2023, the Union's leadership agreed to bring the negotiated CBA to a vote of the membership. On October 16, 2023, the Union President advised the City of a favorable vote on the CBA by both bargaining units.

The substantive changes to the CBA for existing articles are as follows:

Wages-

FY 2022-2023, union members will receive a 5% increase to their base pay and a one-time lump sum payment of \$2,500.

FY 2023-2024, union members will receive a 10% increase to their base pay and a 3% increase (one-step progression in the Step Plan in Appendix B).

Live Fire Training Instructors 2 (LFTI2) will receive compensation of \$1250.00 a year.

Paramedic Incentive increased from \$9,250.00 to \$10,500.

Beginning FY2023-2024, Unit members assigned to the medic position on the rescue will receive an additional

\$1.00 an hour while working in that assignment.

Holiday Leave - Increase from 240 hours of "Fire Holiday Leave" to 252 hours, representing 12 hours for each of the 11 City recognized holidays (equivalent of 132 hours).

The following summarizes new articles added to the CBA:

Annual Physicals- all unit members shall be required to complete a medical examination each calendar year through the City's Motivate Me program.

Special Events- Lieutenants needed for special events shall be compensated \$50.00 an hour, or their City of Kissimmee

overtime rate if it is more than \$50.00 an hour. Firefighters and Engineers shall be paid \$40.00 an hour, or their overtime rate if it is more than \$40.00 an hour.

With the increases in wages, the City's new firefighter's starting salary will be \$51,818 (with FLSA) compared to Osceola County's starting salary of \$49,495.68 and St. Cloud's starting salary of \$46,866. This does not include the additional incentive pay that an employee may receive as a paramedic of \$10,500 a year or other applicable incentives due to special certifications.

This CBA shall remain in effect until midnight September 30, 2024.

Recommendation

Approval of the Collective Bargaining Agreement with the International Association of Firefighters (IAFF), Local 4208, representing the Kissimmee rank and file and supervisory units.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: City Attorney

Presenter:

Attachment(s):

1. Kissimmee IAFF CBA RED-LINE Version -FINAL. 2022.2024
2. /S/ Kissimmee IAFF 2022 CBA Clean Version -FINAL. 2022.2024

COLLECTIVE BARGAINING AGREEMENT

CITY OF KISSIMMEE

and

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 4208

Rank and File Unit (Cert #1400)

AND

Supervisory Unit (Cert #1401)

Effective October 1, 202~~1~~2 to September 30, 202~~2~~4

TABLE OF CONTENTS

<u>Article</u>	<u>Item</u>	<u>Page</u>
	Preamble	4
1	Recognition	5
2	Management Rights	6
3	Probationary Employment	8
4	Union Activity	9
5	Dues Deduction	12
6	Bulletin Boards	13
7	Labor Management Communications	14
8	Wages	15
9	Out Of Classification	20
10	Hours Of Work And Overtime	21
11	Compensatory Time	25
12	Holiday Leave	26
13	Vacation Leave	29
14	Sick Leave	33
15	Pension Plan	36
16	Tuition Reimbursement	38
17	Safety, Health, And Job Related Injuries	40
18	Seniority	43
19	Staffing	46
20	Time Exchange	47
21	Uniforms, Equipment And Personal Appearance	49

22	Vacancies And Transfers	49
23	Miscellaneous	50
24	Grievance And Arbitration Procedure	52
25	Severability	55
26	Funeral Leave	56
27	Annual Physicals	57
28	Special Events/Standby Detail/Public Education	58
29	Duration of Agreement	60
	Signature Page	61
	Appendix A - Firefighters Bill Of Rights	62
	Appendix B – Step Plan	63
	Appendix C – Grievance Form	64

PREAMBLE

This Agreement is entered into between the City of Kissimmee, hereinafter referred to as “City,” or “Employer” and the Kissimmee Professional Firefighters, Local Number 4208, hereinafter referred to as “Union.”

ARTICLE 1 **RECOGNITION**

1.1 The Employer recognizes the Union as the exclusive representative for the purposes of collective bargaining with respect to wages, hours, and other terms and conditions of employment for the following bargaining units:

- (a) Rank and File unit** described in PERC Certification No. 1400 (June 23, 2003):

Included: All full-time certified firefighters in the job classifications of Firefighter and Engineer.

Excluded: Fire Chief, Deputy Fire Chief, Health & Safety Chief, Battalion Chief, Fire Inspector, Lieutenant, Health and Safety Lieutenant, EMS Lieutenant, and all other employees of the City of Kissimmee.

- (b) Supervisory unit** described in PERC Certification No. 1401 (June 23, 2003):

Included: All full-time certified firefighters in the job classifications of Lieutenant.

Excluded: Fire Chief, Deputy Fire Chief, Health and Safety Chief, Battalion Chief, Fire Inspector, Engineer, Firefighter, and all other employees of the City of Kissimmee.

1.2 The provisions of this Agreement shall apply to both of the above bargaining units, except where separate provisions are expressly set out for each individual unit.

ARTICLE 2

MANAGEMENT RIGHTS

2.1 The Union recognizes that, except to the extent that the Employer has agreed otherwise by the express terms of this Agreement, the Employer retains all the rights and the authority it has previously exercised in the delivery of Fire/EMS services to the citizens of the City of Kissimmee and in the organization and direction of the public employees who provide such services. Nothing in this Agreement shall be deemed to constitute an undertaking by the Employer to guarantee the continuation of any job, operation, or portion thereof, currently performed by unit employees. Nothing in this Agreement shall be deemed a guarantee of employment to any unit employee.

2.2 In accord with the provisions of Section 447.209, Florida Statutes, the Employer retains the exclusive right and authority to determine unilaterally the purpose of each of its constituent agencies; to set standards of services to be offered to the public; to exercise control and discretion over its organization and operations; to direct its employees; and to relieve its employees from duty because of lack of work or for other legitimate reasons.

2.3 In accord with Section 447.209, Florida Statutes, the employer retains the following management rights, but only to the extent that they are not limited by the express terms of this Agreement:

- (a)** Make and change reasonable rules and regulations;
- (b)** Determine the basis for selection, retention, and promotion of employees to or for positions inside or outside the bargaining unit;
- (c)** Determine the qualifications for employees and the contents of job classifications;
- (d)** Determine the work assignments of employees;
- (e)** Change or eliminate existing work procedures and equipment utilization;
- (f)** Transfer, subcontract, or eliminate work, including work performed by bargaining unit members;
- (g)** Schedule and reschedule working hours, starting and quitting times for employees in the bargaining unit, subject to the express terms of this Agreement;
- (h)** Establish and enforce quality and quantity standards and judgment of workmanship required;
- (i)** Determine services to be rendered;
- (j)** Determine the locations of business activities including the establishment of new ones and the relocation and/or closing of existing ones.

2.4 It is further agreed that the above detailed enumeration of management rights shall in no way be deemed to exclude any other management prerogatives that may not have been specifically enumerated.

2.5 The Union recognizes and agrees that the Employer retains sole and exclusive rights to manage its affairs in all respects and as to all matters in connection with the exercise of such rights; and specifically, that nothing in this Agreement shall be construed as delegating to another the authority conferred by law on any member or official of the City of Kissimmee or in any way abridging or reducing such authority.

2.6 The Union agrees, in recognition of management's rights, not to request the Employer to bargain with respect to the foregoing during the life of this Agreement. However, should decisions on the above matters have the practical consequence of violating the terms and conditions contained in this Agreement, the exercise of such management rights shall not preclude employees or the Union from raising grievances.

2.7 The Employer recognizes that if decisions on the matters listed in Section 2.3 have a direct and substantial impact on the wages, hours, or terms and conditions of employment of bargaining unit employees, the Union has the right, except as provided by law in the case of exigent circumstances, to bargain regarding the impact of such decisions upon bargaining unit employees prior to the implementation of such decisions.

ARTICLE 3
PROBATIONARY EMPLOYMENT

All employees newly hired shall be required to serve a probationary period of 12 months. The Employer may extend the probationary employment period to allow the Employer an extended period of time within which to evaluate the employee's ability to successfully complete probation and become a permanent employee. Newly hired probationary employees do not have a property right in their employment and may be terminated during the probationary employment period for failure to satisfactorily complete the probationary period, as determined by management. Terminations during the probationary employment period are not subject to the grievance provisions of this Agreement.

Employees promoted to the rank of Engineer and higher shall serve a promotional probationary period of six (6) months. The promotional probationary period may be extended by the Employer.

ARTICLE 4

UNION ACTIVITY

4.1 Upon ratification of this agreement by all parties, the City will provide the Union with two copies of the complete collective bargaining agreement in electronic format, one in Word and one in Adobe pdf. At the same time, the City will also provide the Union with one printed copy that is signed and dated. The Union will be responsible for distributing the Agreement to members of the bargaining unit.

4.2 The Union shall have the right to designate one shift steward per shift. The Union shall notify the City, in writing, of the identity of the Union's designated shift stewards.

4.3 The Union shall have the right to designate a President, Vice-President, Treasurer, Secretary, and Trustee. The Union shall notify the City, in writing, of the identity of the Union's new officers.

4.4 Time to Conduct Union Business

- (a)** The Union agrees to conduct Union business outside of normal working hours to the maximum extent possible to minimize potential disruption of the work of unit employees.
- (b)** The Union President, Vice-President, and designated shift stewards will be permitted to use a reasonable amount of official duty time, without loss of pay or benefits, for the following purposes:
 - 1.** To represent a bargaining unit employee, or act as a representative of the Union during a grievance meeting with Employer representatives, as provided for in the grievance procedure; and
 - 2.** To consult with management officials or attend meetings with management, when approved or authorized to do so by management; and
 - 3.** To be present at any questioning of a bargaining unit employee by a representative of the Employer in connection with an investigation of the employee when the employee reasonably believes that the questioning may result in disciplinary action and the employee requests Union representation.
- (c)**
 - i.** When it is necessary for a Union President, Vice-President, or designated shift steward to meet with an employee of the City of Kissimmee for any other reason not provided for in Section 4.4(b), the Union representative (and the employee, if another employee is involved) shall schedule such meetings or other tasks after work hours, except in cases of emergencies that cannot be postponed.

- ii. If the Union representative and/or employee need to take time during the regular workday to investigate a grievance, or to attend to other Union business, such time will be taken as leave without pay, which shall be subject to the approval of the Battalion Chief of the employee and the Battalion Chief of the Union representative. —Approval of unpaid leave for this purpose will not be unreasonably withheld. Provided, however, that Battalion Chief(s) are not required to approve the requested leave if either employee is needed on the job due to the operational needs of the Department. In lieu of requesting leave without pay, the employee and/or the Union representative may use time pool hours in accordance with Section 4.8.

4.5 New Hire Orientation

- (a) During the initial Fire Department orientation period of a new bargaining unit employee, the City will notify the employee that his/her job is in a bargaining unit represented by the Union, will provide the employee with contact information for the Union, and will notify the employee that he/she has the right to join or not join the Union. The Employer will provide the Union with at least seven (7) days notice of the date of the initial orientation.
- (b) A Union representative will be permitted to meet with each new bargaining unit employee during his/her initial orientation period for not more than thirty (30) minutes, in order to discuss Union membership with the employee. The Union representative must schedule the time for this meeting at a time approved by management. At no time will the Union representative use abusive, degrading, or threatening language to coerce an employee to join the Union.

4.6 The Employer will make reasonable efforts to allow up to two members of the Union to rearrange their work schedules, use accrued vacation leave or compensatory time, or take time off without pay, to attend negotiating sessions mutually set to negotiate or renegotiate this Agreement.

4.7 The Union shall be permitted to place, at the Union's expense, one IAFF sticker upon a window of each piece of Kissimmee Fire Department apparatus. Before placing any sticker on Fire Department equipment, the Fire Chief shall approve the size, and content of the sticker, and the location where it is to be placed.

4.8 Union Time Pool

- (a) Employees may volunteer to donate accrued vacation time and accrued compensatory time to a Union time pool. Employees wishing to donate time to the Union time pool will be required to fill out and submit quarterly forms for that purpose that are provided by the Employer.
- (b) The maximum amount of time any employee may donate to the Union Time Pool is forty-eight (48) hours per fiscal year.

- (c) In order to equalize the costs associated with use of time by various employees at different rates of pay, the Employer will convert hours accrued in and used from the Union Time Pool into a dollar equivalent. When an employee donates time to the Union Time Pool, the Employer will convert the time to a dollar equivalent by multiplying the amount of time donated by the donor's regular hourly rate of pay at the time of the donation. That dollar equivalent will be credited to the Union's Time Pool. When time is used from the Union Time Pool, the Employer will calculate the amount to be charged to the Time Pool by multiplying the number of hours used by the regular hourly rate of the employee(s) using the time.
- (d) The Union President, or designee, is required to authorize any use of the Union Time Pool.
- (e) Employees wishing to take time away from their regular duties to use Union Pool Time must request leave in advance, following the normal procedures for vacation leave time requests.

ARTICLE 5
DUES DEDUCTION

5.1 Any member of the Union who has submitted a properly executed written dues deduction authorization to the City Manager (or his designee) may have his membership dues in the Union deducted from his pay. Dues so deducted shall be transmitted to the Union after each pay period, accompanied by a list of those employees' names whose dues are included. It shall be the responsibility of the Union to notify the City Manager, or his designee, of any change in the amount of dues to be deducted at least thirty (30) days in advance of said change. Under no circumstances shall the Employer be required to deduct Union fines, penalties, or special assessments from the pay of any member. An employee may revoke his authorization for dues deduction upon thirty (30) days written notice to the Employer and the Union.

5.2 In the event that an employee has not earned enough money in a given pay period to allow the Employer to make all deductions authorized by the employee, the Employer will make deductions in the following order:

First, required tax and social security and Medicare deductions;

Second, legally required child support payments;

Third, deductions for medical coverage, pension benefits, and other employee benefit programs,

Fourth, Union dues.

In the event that an employee's authorized dues are not deducted because of a shortage in the amount of the employee's pay, the Employer will notify the Union, and the Union will be responsible for collecting the dues that were not deducted.

5.3 The Union agrees to indemnify and hold harmless the Employer, its agents, employees, and officials from and against any claims, demands, damages, or causes of action of any nature whatsoever, asserted by any person, firm, or entity, based upon or related to payroll deduction of Union dues. The term officials as used herein, includes elected and appointed officials.

5.4 For purposes of this Article, the parties recognize that workers compensation indemnity payments are not paid through the City and the City will not be responsible for deducting or collecting Union dues from workers compensation indemnity payments paid to Union members.

ARTICLE 6

BULLETIN BOARDS

6.1 The Employer agrees to furnish wall space not to exceed twelve square feet in each work location for the Union to place a bulletin board, which shall be purchased at Union expense. The bulletin board will be consistent in style with the existing bulletin boards in the respective work locations.

6.2 The Union President, or designee, will be responsible for monitoring the bulletin board to assure that all postings are in compliance with the provisions of this article, and for removing outdated material. If the Union President delegates this responsibility, the Union will notify the Fire Chief, or his designee, of the name of the Union representative so designated.

6.3 One Union bulletin board will be used for postings related to both the “rank and file” and the “supervisory” bargaining units.

6.4 The Union bulletin board shall be used only for posting information related to Union business and activities. Examples of items which may be properly posted include but are not limited to: Union newsletters; notices of Union meetings; notices of recreational and social functions of the Union; information about Union elections, including contract ratification votes; reports of Union committees, and information about Union benefit programs.

6.5 No posting on the Union bulletin board shall contain any political advertisements or endorsements, or anything controversial, or anything reflecting adversely on the City, or any of its employees, officials, its constituents, or independent agencies, or anything which falls outside of the provisions of the City’s Code of Conduct. No materials, notices, or announcements which violate the provisions of this article shall be posted.

6.6 Only Union officers or designated shift stewards are permitted to post notices on the Union bulletin board. Before posting, the Union officer or steward must obtain authorization to post from the Fire Chief or his designee. All postings shall bear the signatures of the Union President or designee and the Fire Chief or designee as proof that the item is an authorized posting. The Fire Chief will not unreasonably withhold approval of the posting of materials. The Employer may remove any item from the bulletin board that has been posted without having first obtained the appropriate signatures.

6.7 Union officers shall be allowed to disseminate information to bargaining unit employees through the use of City email, subject to the restrictions in Sections 6.4 through 6.6.

ARTICLE 7
LABOR MANAGEMENT COMMUNICATIONS

The parties recognize that good communications foster good labor management relations. The parties agree to meet with each other, upon the request of either party, to discuss items of interest to employees or to management. Provided that nothing in this article shall be interpreted to require either party to reopen negotiations on any subject during the term of this Agreement. Unless mutually agreed otherwise, the parties agree to meet a minimum of four (4) times per year. When such meetings are scheduled at the request of the Employer, up to three (3) employees who are Union representatives will be released from work without loss of pay (or compensated at their regular rate of pay if they attend the meeting on a day off). The Employer may authorize additional employees to attend on a paid basis if the Employer determines that the attendance of those employees is needed at the meeting.

ARTICLE 8 WAGES

8.1 The hourly rate of pay for all bargaining unit members on a 24/48 hour schedule will be determined by dividing their annual salary by 2,912, which shall be considered the number of annual working hours for employees on a 24/48 hour schedule. The hourly rate for all bargaining unit members assigned to a 40 hour schedule will be determined by dividing their annual salary by 2080.

8.2 Pay rates for Fiscal Year 202~~12~~-20~~24~~ (October 1, 202~~12~~ through September 30, 202~~12~~).

(a) Step Plan Progression Increase for FY 2022 - 2023. ~~Eligible bargaining unit employees will progress one step in pay as follows:~~

1. Unit members who remain employed as of the date of ratification and until October 1, 2022, of this amended Agreement shall receive a five (5) percent increase to their base pay (5% COLA), effective October 1, 2022. All unit members will not progress in the step plan this fiscal year.

~~1. Employees who have been employed at the City for at least one year as of September 30, 2021, who remain employed as of the date of ratification of this Agreement, and who received a meets expectation or above annual evaluation between October 1, 2020 and September 30, 2021, will receive a three percent (3%) [one step] increase effective October 1, 2021.~~

2. Unit members who remain employed as of the date of ratification and until October 1, 2022 of this amended Agreement shall receive a one-time lump sum payment of \$2,500.

(b) Step Plan Progression Increase for FY 2023 - 2024.

1. Unit members who remain employed as of the date of ratification and until October 1, 2023, of this amended Agreement shall receive a ten (10%) percent increase to their base pay (10% COLA). Unit members in step 2 and above of the step plan shown in Appendix B will progress one step this fiscal year.

~~Employees who have been employed at the City for less than one year as of September 30, 2021, who remain employed as of the date of ratification of this Agreement, and who receive a meets expectation or above annual evaluation will receive a three percent (3%) [one step] increase effective on the anniversary of their date of hire.~~

8.3 Step Plans. The step plan for Firefighter, Engineer, and Lieutenant for FY 202~~2~~³-2023~~2~~², and FY 2023 - 2024 is shown in Appendix B. Progression through the step plans will only occur as provided in this article. There will be no further progression in the step plan beyond September 30, 202~~2~~⁴, and the step plan will be held in abeyance until such time as it is renegotiated.

8.4 If the pay increases provided in this article cause an employee's pay level to exceed the maximum of the step plan, the excess amount over the maximum shall be paid as a one-time supplemental payment, not added to or included in the employee's base rate of pay but included in the employee's overtime rate of pay.

8.5 Eligible bargaining unit employees will be paid a longevity bonus under one of the following plans:

- (a) Longevity Plan – Eligible bargaining unit employees who have been employed at the City of Kissimmee for ten (10) years or longer as of December 1 are eligible for a longevity bonus, paid in December of each year, according to the following schedule:

10 to 14 years service	\$300
15 to 19 years service	\$400
20 to 24 years service	\$500
25 or more years of service	\$600

In order to be eligible to receive this longevity bonus, an employee must receive an "effective" level (or its equivalent) or higher evaluation score and must not have received any discipline higher than a written reprimand during the 12-month period preceding December 1.

- (b) Grandfather Clause – In lieu of the longevity plan set out in Section 8.7 (a), employees who have been continually employed with the City longer than five (5) years as of December 1, 1999, will be eligible for longevity pay equal to two percent (2%) of their December 1999 annual salary upon completing 9 years of service. In order to receive this longevity bonus, the employee must receive an "effective" level (or its equivalent) or higher evaluation score and must not have received any discipline higher than a written reprimand during the 12-month period preceding December 1. The 1999 bonus level will continue unless the plan level in Section 8.7(a) would increase the employee's bonus amount. Longer term employees receiving longevity pay based on more than 2% of their 1999 salary will continue to receive that dollar amount unless the longevity pay under Section 8.7 (a) plan is greater.

8.6 Employees who hold the following certifications, licenses, or designations and submit proof to the employer thereof by September 30th will be paid an incentive during the month of December for the calendar year past. Partial year certifications submitted by September 30th will be paid a prorated incentive based upon the number of months of certification divided by 12.

In cases of pro-rata incentive payments, the amount due will be calculated using the following:

- Certifications must be earned on or before the 15th of the month in order for an employee to be eligible for the incentive that month.
- Newly hired employees who are eligible for an incentive shall receive the incentive for the first month of employment only if the employee began work on or before the 15th of the month.
- Terminated employees who are eligible for the incentive will be paid the incentive for the last month of employment if they remain employed through the 16th of the month. Employees who leave service on the 15th of the month or sooner will not receive the incentive payment for the last month of service.

To receive these incentives, an employee must be actively providing services as a firefighter, as defined in Section 112.81(1), Florida Statutes. An employee who is injured in the line of duty and temporarily unable to provide services will be considered to be actively providing services for the purposes of this article. If an employee is actively providing services for less than an entire year, the incentive will be prorated, based on the employee's term of service.

Employees must be employed in the Fire Department on September 30 to be eligible to receive the applicable incentive(s) during the month of December.

If an eligible employee terminates his or her employment on or after October 1, the employee is eligible to receive a pro-rated portion of their applicable incentive(s) based upon the number of months that the employee both worked and held the certification. The incentive pay will be requested on the termination PAF at the time of the employee's termination. The employee's name will still be included on the incentive Pay listing sent to Finance, but a memo attached to the listing will state that the employee has already received the incentive, in order to assure that the incentive is not paid twice.

- (a) The following certifications, licenses, or designations are compensated as long as maintained by the employee.

Fire Inspector Certificate	\$500.00 per year
Fire Instructor Certificate	\$500.00 per year

- (b) The following certifications, licenses, or designations are compensated as long as maintained by the employee and the employee is actively involved with the delivery of these programs as determined by the Fire Chief or his/her designee.

CPR Instructor	\$300.00 per year
ACLS Instructor	\$500.00 per year
Paramedic Training Officer (PTO)	\$2.50 per hour
Paramedic Preceptor	\$1.25 per hour
SCBA Service Technician	\$500.00 per year
Live Fire <u>Training</u> Instructor (<u>LFTI</u>)	\$750.00 per year

Live Fire Training Instructor 2 (LFTI2) \$1250.00 per year¹

For the purposes of this article, a Paramedic Training Officer (PTO) is an individual selected by, and acting under the supervision of the Medical Director, to train, mentor, and supervise KFD employees who are seeking paramedic status as described in Section 8.9. Employees will be paid this per-hour rate in their regular paycheck.

The designation Paramedic Preceptor is limited to individuals who are not on probation and have been a KFD paramedic for a minimum of one (1) year and are precepting institutional paramedic students regardless of where they are in their program. Employees will be paid this per hour rate in their regular paycheck.

For the purposes of this article, a Live Fire Training Instructor (LFTI) or (LFTI2) is an individual who holds a current State of Florida LFTI certification through the Bureau of Fire Standards and Training.

- (c) The following departmental designations are compensated as long as maintained by the employee, provided the employee holds course completion certificates at the Technician Level for the following State of Florida approved courses: Rope Rescue, Confined Space, Vehicle/Machinery Rescue, and Trench Rescue. For Hazardous Materials Technician, the employee must maintain a current State of Florida Hazardous Materials Technician certification.

Special Operations Technician who holds the class certificates as currently written and is permanently assigned to a Special Operations unit (Currently Squad 11/Rescue 11 and Tower 11/Rescue 15): \$1,000 per year

Special Operations Technician not permanently assigned to a Special Operations Unit: \$500.00 per year

Hazardous Materials Technician \$500.00 per year

Management reserves the right to change what units are designated Special Operations units and at which Fire Stations they are located.

8.7

- (a) All certified paramedics cleared to function in solo status will receive an annual paramedic incentive in the following amount, in addition to their base rate of pay as set forth in the step plan included in the appendix to this Agreement.

Beginning FY 202~~4~~2-202~~3~~3
Engineers & Lieutenants \$10,500
Firefighter Paramedics \$10,500

¹ Not to be compounded with LFTI Certification. An employee who is eligible for LFTI 2 incentive shall not receive the LFTI incentive.

Beginning October 1, 2023, Unit Members assigned to the medic position on a Rescue will receive an additional \$1.00 an hour while in that assignment.
~~\$9,250~~

The incentive will be paid as “additional pay” and will be divided over twenty-six (26) pay periods per annum.

- (b) An employee will be entitled to the paramedic incentive when he/she successfully completes the skills assessment as prescribed by the Medical Director. The determination of whether an employee has successfully completed the prescribed skills assessment shall rest solely with the Medical Director and shall not be subject to the grievance or arbitration provisions of this Agreement.
 - (c) If successful completion of the skills assessment is achieved on the first attempt within ninety (90) calendar days of the date of state paramedic certification (in the case of existing employees), or of the date they are assigned to shift (in the case of new hires), then the incentive will be applied retroactively back to the date of certification (for existing employees) or the date assigned to shift (for new hires). If successful completion of the skills assessment is not achieved on the first attempt, but is achieved on a later attempt, the incentive will be effective as of the date of the immediately previous attempt of the skills assessment²
- 8.8** Lieutenants assigned to Administration will receive a ~~\$53.00~~ per hour incentive for all time worked in Administration.

² If the date of the skills check-off is delayed through no fault of the employee, the ninety (90) day window will be extended.

ARTICLE 9
OUT OF CLASSIFICATION

9.1 When an Engineer, Lieutenant, or Battalion Chief is unavailable, qualified personnel may ride out of grade (“ride up”) on a temporary basis to fill the vacancy. The Employer shall designate the person who will “ride up.”

9.2 Employees will be required to meet the minimum qualifications to “ride up” as defined in the SOGs.

9.3 Any employee assigned out-of-class (“ride up”) for training purposes shall be supervised by a qualified employee. The employee assigned out of class (“ride up”) for training purposes shall receive his/her normal rate of pay during the training assignment.

9.4

- (a) Employees working above their pay grade as an Engineer will receive a ~~\$1.60~~ \$2.00 per hour “ride up” incentive (except for persons who are in training as set out in Section 9.3).
- (b) Employees working above their pay grade as a Lieutenant will receive a ~~\$1.80~~ \$2.50 per hour “ride up” incentive (except for persons who are in training as set out in Section 9.3).
- (c) Employees working above their pay grade as a Battalion Chief will receive a ~~\$2.00~~ \$3.00 per hour “ride up” incentive (except for persons who are in training as set out in Section 9.3).

9.5 Absent an emergency situation, employees may not “ride down” in a lower rank to meet minimum staffing requirements.

ARTICLE 10
HOURS OF WORK AND OVERTIME

10.1 Scheduling.

- (a) Bargaining unit employees will be assigned by the Employer to one of the following work schedules:
- 24-hour shift -- The 24-hour shift schedule shall consist of an average 56 hour work week (averaged on an annual basis at 2,912 hours per year), with each week divided into three shifts (A, B, and C shift). The work schedule for each shift shall be 24 hours long. These shift employees will be scheduled to work for 24 hours, and then have 48 hours off. The start time for each shift is 7:30 a.m.
 - 40-hour employees – These employees will be scheduled to work a 40 hour per week schedule (2,080 hours per year). Employees may be temporarily assigned to a 40 hour per week work schedule. The Employer has the right to determine the starting and quitting time of each 40-hour employee.
- (b) The Employer shall determine the number of employees to be assigned to each of the above work schedules, and to each shift or Battalion, in compliance with Article 19 Staffing.
- (c) The Fire Chief or his designee, may reassign or transfer any employee, particularly in cases of emergency or when operational needs require that specific employees be selected. However, the Fire Chief may, at his option, first ask for volunteers. In cases where volunteers are used, if there are not enough volunteers for the change, the employer may require employees with the lowest seniority to accept the schedule/shift change. If there are more volunteers than needed, the Employer will select the volunteer(s) with the highest seniority. Subject to the provisions of this subsection, the Employer shall determine which employees are to be assigned to each shift or work schedule.
- (d) The Employer will notify the affected employee(s) at least forty-eight (48) hours in advance of any changes in the employee's regular work schedule or shift assignment, including standby duty and overtime assignments, except in cases of emergency, or when such adjustments are made to minimize overtime pay, or when operational needs do not allow time for notification.
- (e) The Employer may adjust an employee's starting or quitting time or scheduled workdays within a work period in order to avoid or minimize overtime pay where a pre-planned or scheduled change in the employee's normal working schedule could otherwise result in overtime pay. Examples where the employer is permitted to adjust work schedules under this provision include but are not limited to:

- adjustments to accommodate training schedules;
- adjustments to accommodate the transfer of employee(s) from one shift to another (e.g. A shift to B shift);
- adjustments to accommodate the transfer of employee(s) from one work schedule to another (i.e., 56-hour schedule to 40-hour schedule, or vice-versa);

However, because of the nature of the work of the Fire Department, employees are sometimes called out near the end of the shift to respond to fire alarms or calls for emergency medical services. Because of the need to provide prompt, effective, and professional service to the citizens of Kissimmee, the crew may sometimes need to stay later than the normal end of the work shift to complete work on the call. In addition, employees are sometimes required or asked to work an additional shift or work an extra duty assignment. Nothing in this subsection is intended to allow the employer to require an employee in such a situation to work fewer hours on another shift in order to avoid or minimize the payment of overtime compensation.

- (f) Except in case of emergency as decided by the Fire Chief (or his designee) or Battalion Chief, no employee shall work more than 48 consecutive hours. After 48 consecutive hours of work, the employee must receive at least 8 hours off before again reporting for work.

10.2 Overtime Pay

- (a) Employees will be paid overtime compensation as provided for by the Fair Labor Standards Act, as the same may be amended from time to time. For purposes of calculating overtime, the Employer uses a 14-day work period, with employees generally being entitled to overtime for all hours worked over 106 hours in the 14 day period.
- (b) For work performed outside of the regular work schedule to be considered as time worked for purposes of overtime pay calculations, the employee must be told or permitted to work in advance by a management official (acting Battalion Chief or higher). No employee may authorize overtime for himself/herself.
- (c) Overtime will be compensated by overtime pay calculated at a rate of one and one-half times the employee's regular rate of pay for each hour of overtime worked. Alternately, with the mutual consent of the employer and employee, the employer will award the employee compensatory time at the rate of one and one-half hours of leave for each hour of overtime worked, in lieu of overtime pay.
- (d) Employees may only accrue unused compensatory time up to a maximum of 480 hours. When an employee accrues the maximum possible compensatory leave, the employee shall be paid for all overtime hours at a rate of one and one-half times the employee's regular rate of pay. The Employer can require an employee to use accrued compensatory leave, provided the employee is given at least 48 hours

advance notice. Accrued compensatory time must be used before using accrued vacation leave.

- (e) Time spent on vacation leave and compensatory time shall be considered as hours worked for purposes of overtime calculation. Time spent on sick leave and funeral leave is not considered as hours worked for purposes of overtime calculation. For Administrative Lieutenants, time spent on vacation leave, holiday leave, and compensatory time shall be considered hours worked for purposes of overtime calculation.

10.3 Scheduling Overtime

- (a) The Employer shall use a seniority/overtime list to distribute overtime assignments, except where operational needs require that the Employer call on a certain employee or group of employees.
- (b) The Employer shall maintain a seniority/overtime list by rank for each shift. The overtime lists shall list each person in a particular rank on the shift in order of seniority, from most senior to least senior. Overtime shall be offered to the applicable employee on the off-going shift's list first. As each employee is asked, his/her name shall be placed at the bottom of the overtime list, whether he or she accepts the overtime or not. An employee's name will not be moved to the bottom of the overtime list if the employee is unable to accept the overtime assignment because of a commitment to work a previously approved time exchange, or because of any other scheduling commitment previously authorized by the Employer. If there are not enough volunteers from the off-going shift, then the employees on the other non-duty shift shall be offered overtime in the same manner. If there are still not enough volunteer personnel to work the overtime, the employer will require employees to work overtime. The Employer will go to a separate "Mandatory List" to assign the overtime. The Mandatory List will be in reverse order of the regular overtime list from the junior fire fighter to the senior lieutenant. The overtime will be assigned in order of the list. As an employee receives mandatory overtime, he/she will be marked off and the list will be picked back up at that mark for the next occurrence of mandatory overtime. Due to staffing needs it may be required to move down the list to mandatory an employee for a position that needs filled such as lieutenant, engineer, or paramedic.
- (c) The Employer has the right to require any employee to work overtime, and to schedule overtime as needed. Upon request, the Employer will make reasonable efforts to relieve an employee from the requirement to work overtime when the employee has a valid reason for not working the overtime and when there is another qualified employee who is willing to work the overtime.

10.4 Rounding for Pay Calculations

Time worked will be rounded up to the next quarter hour for payroll computation purposes.

10.5 Call Back Pay

An employee who is called back into work after he/she has been relieved from duty and has left the Fire Department work location is entitled to a minimum of two hours of pay at the applicable rate.

10.6 SERP deployment crew personnel on any deployment will be paid at a daily rate of a full 24 hours from time of activation to the time of demobilization, not just “work hours.” This agreement is based upon the parties’ understanding of relevant FEMA rules for reimbursement as of May 26, 2021. In the event of a change in FEMA or State Fire Marshal rules affecting this agreement, the parties will return to the bargaining table to address the change.

ARTICLE 11

COMPENSATORY TIME

11.1 In accordance with FLSA regulations, and with the mutual consent of the employer and employee, employees may be granted compensatory time off in lieu of overtime pay. An hour and one-half of compensatory time will be accrued for each hour of overtime worked.

11.2 The maximum amount of compensatory time that may be accrued is 480 hours.

11.3 Use of Accrued Compensatory Time

- (a)** Employees wishing to use accrued compensatory time shall make a request to their Battalion Chief at least 48 hours in advance of the time that the employee wishes to use the leave time.
- (b)** Requests for unplanned use of compensatory leave shall be made to the battalion chief before 1930 hours the evening before. Such requests shall be granted on a first-come, first-serve basis and shall be approved based on the operational needs of the shift or division for the time period requested as determined by the Fire Chief or designee.
- (c)** Accrued compensatory time must be used before using accrued vacation time.

11.4 Payout of Compensatory Time

Upon termination of employment for any reason (resignation, retirement, layoff, dismissal), employees shall be paid for all accrued compensatory time at the employee's rate of pay at the time of the separation.

ARTICLE 12 **HOLIDAY LEAVE**

Twenty-Four Hour Shift Employees

12.1 Bargaining unit employees who work 24-hour shifts may be scheduled to work on City recognized holidays and shall be compensated for holidays via a fire holiday leave accrual.

12.2 Holiday Accrual

Twenty-four-hour shift employees will accrue and utilize fire holiday leave as follows:

- (a) Effective October 1, 2023~~1~~, 24-hour shift employees who are employed as of January 1, will accrue ~~240~~252 hours of “fire holiday leave” on January 1. The ~~240~~252 hours are composed of 12 hours for each of the ~~ten~~eleven (~~10~~11) “City recognized holidays” (~~120~~132 hours) and 12 hours for each of the ten “City additional holidays” (120 hours).
- (b) Twenty-four-hour shift employees who are hired after January 1 will be credited with a quarterly prorated number of “fire holiday leave” hours, according to the following schedule:

Quarter Hired	Leave Credited
Jan-Mar	All holiday leave
Apr-Jun	2/3 holiday leave
Jul-Sept	1/3 holiday leave
Oct-Dec	No holiday leave

12.3 Use of Holiday Leave Hours

Employees may use their fire holiday leave hours under the same terms and conditions as vacation leave. However, any employee who terminates employment with less than five (5) years service with the Department, who has used more than half of his/her accrued fire leave hours in the six-month period preceding termination of employment, will be required to reimburse the City for any hours used in excess of fifty percent of his/her total accrued holiday leave hours. The reimbursement will be taken from any compensation owed to the employee at termination. If the amount of compensation owed is insufficient to reimburse the City for the amount owed, the employee will be required to reimburse the City out of pocket.

12.4 Any fire holiday leave hours that are not used by the end of the calendar year are forfeited, and the accrued but unused time cannot be liquidated for cash. Employees who separate their employment with the City shall not be compensated for any accrued but unused fire holiday leave.

12.5 Cancellation of Previously Approved Holiday Leave

- (a) An employee may cancel previously scheduled fire holiday leave by providing written notice to his or her battalion chief, at least forty-eight (48) hours prior to the commencement of such leave.³ Except in the case of the actual date of a holiday which is recognized by the City (as opposed to the date on which it is observed), fire holiday leave may be cancelled by the employee with less than forty-eight (48) hours written notice upon mutual agreement of the employee and his or her battalion chief.
- (b) The Fire Chief or his designee may, at any time, cancel an employee's previously scheduled fire holiday leave in case of an emergency or circumstances beyond the control of the Fire Department.

Forty Hour Non-Shift Employees

12.6 Holiday Leave

- (a) Bargaining unit employees who work a forty-hour non-shift schedule are not scheduled to work on the observed City recognized holidays and shall be compensated for holidays via holiday leave. When a City recognized holiday falls on a Saturday, the preceding Friday shall be designated as the official holiday for that year. When the holiday falls on a Sunday, the following Monday shall be designated as the official holiday for that year.
- (b) In addition, on January 1, forty-hour non-shift employees will accrue ten (10 eight-hour days (eighty (80) hours total) of "additional holiday". This replaces the provisions on the same subject of CP303.03 Employee Compensation, Benefits, & Leave (Holidays).
- (c) Forty-hour non-shift employees hired after the first day of January will be credited with a pro-rated amount of additional holiday according to the following schedule:

Quarter Hired	Leave Credited
Jan-Mar	All additional holiday leave
Apr-Jun	2/3 additional holiday leave
Jul-Sept	1/3 additional holiday leave

³ Email is acceptable to expedite the required notice. However, the email must be followed up with a signed memorandum for documentation.

Oct-Dec	No additional holiday leave
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12.7 Employees may use their additional holiday leave hours under the same terms and conditions as vacation leave.

12.8 Any additional holiday leave hours that are not used by the end of the calendar year are forfeited, and the accrued but unused time cannot be liquidated for cash. Employees who separate their employment with the City shall not be compensated for any accrued but unused additional holiday leave.

12.9 Cancellation of Previously Approved Leave

- (a)** An employee may cancel previously scheduled additional holiday leave by providing written notice to his or her battalion chief, at least forty-eight (48) hours prior to the commencement of such leave.⁴
- (b)** The Fire Chief or his designee may, at any time, cancel an employee's previously scheduled leave in case of an emergency or circumstances beyond the control of the Fire Department.

⁴ Email is acceptable to expedite the required notice. However, the email must be followed up with a signed memorandum for documentation.

ARTICLE 13
VACATION LEAVE

13.1 Eligibility

- (a) All permanent, full-time employees will accrue vacation leave in accordance with the provisions of this article.
- (b) Probationary employees will accrue vacation leave monthly from their initial date of hire but are not authorized to use the accrued vacation leave until they have completed six months of service.

13.2 Accrual

- (a) Employees working 24-hour shifts shall accrue vacation leave based on the following schedule:

<u>Years of Continuous Service w/City</u>	<u>Annual Accrual</u>
Initial hire through 5-year anniversary	5 24-hour shifts
6th year through 10th anniversary	6 24-hour shifts
11th year through 15th anniversary	7.5 24-hour shifts
16th year through 20th anniversary	8.5 24-hour shifts
After 20 years or more	10 24-hour shifts

- (b) Employees working a forty (40) hour weekly schedule shall accrue vacation leave based on the following schedule:

<u>Years of Continuous Service w/City</u>	<u>Annual Accrual</u>
Initial hire through 5-year anniversary	6.66 hours (10 days per year)
6th year through 10th anniversary	8.0 hours (12 days per year)
11th year through 15th anniversary	10.0 hours (15 days per year)
16th year through 20th anniversary	11.33 hours (17 days per year)
After 20 years or more	13.33 hours (20 days per year)

- (c) **Maximum Accrual** – Employees may accrue up to three (3) times the employee’s current annual accrual rate. However, in the event that an employee leaves City employment, he or she will only be eligible for payment for a maximum of two (2) times the employee’s current annual rate (e.g., an employee with 8 years of service would only be paid for a maximum of 288 hours). Employees shall receive no other compensation in lieu of taking such vacation leave.

13.3 Selection of Vacation Dates

- (a) Between November 15 and December 15 of each calendar year, the employer will confer with the employees by seniority to review the employees’ requests for

vacation dates for the period from January 1 to December 31 of the following year. Employees who advise the employer of their preferred vacation dates during that time period will have those requests reviewed and approved based upon the employee's seniority as defined in Article 18 of this Agreement, and the operational needs of the shift for the time period requested in accordance with the following procedure:

1. The Employer will prepare a "vacation calendar" for the year, or other documentation, which indicates the number of employees on each shift and/or job classification that can be on vacation at one time, based on the operational needs of the department.
2. For vacations to be taken in odd years, the Employer will confer with each employee about the employee's selection of vacation dates in order of seniority in rank. For vacations to be taken in even years, the Employer will confer with each employee about the employee's selection of vacation dates in order of seniority within the department.
3. The Employer and the employee may confer by telephone, e-mail, or any other mutually agreed method of communication. The employee will be able to review the vacation calendar to determine which dates are available for selection. After reviewing available dates, the employee will advise management of his/her selection.
4. If the dates selected by the employee are available, the Employer will note the employee's selection of those dates on the vacation calendar. This information will be available to all employees reviewing the vacation calendar, so that they know which dates remain open for selection. The Employer will then confer with the employee with the next highest seniority about selection of vacation dates and continue in like manner until all employees have selected their preferred vacation dates.
5. During the priority vacation selection period, from November 15 to December 15, employees will be limited to the greater of the amount of unused vacation the employee has accrued as of the day of selection, or one (1) year of vacation accrual at the employee's current rate of accrual. However, employees may split the use of their vacation time into two time periods, provided that no time period requested shall be less than a minimum of 24 hours (one shift) and the total request shall not exceed a maximum of 5 consecutive 24-hour shifts. The Employer will confer with employees by seniority to obtain the first choice requests for use of vacation time from each employee. Once all employees have had the opportunity to make a first choice, the Employer will confer with employees by seniority to obtain any second choice requests. Second choice requests will be reviewed and approved in the same manner as first choice requests (based on the employee's seniority in employment with the City, and the operational needs of the shift for the time period requested.) Once all employees have had the opportunity to make a

second choice, the Employer will review and approve third choice requests, and will continue in like manner until all requests have been reviewed.

(b) Requests for vacation dates that are submitted after December 15 shall be reviewed on a first come, first serve basis, and approved based on operational needs of the shift for the time period requested. In the event that two or more requests for the same time are received on the same date, the employee having higher seniority in employment with the City shall be given priority.

(c) Requests to take vacation time must be in increments of 24-hour shifts, except that when vacation time is being used to attend school the request may be for less than 24 hours, when permitted by the Battalion Chief

(d) Requests to take vacation time in the following December may continue into January as long as the time is continuous. (Example: In December 2004, an employee requests to take vacation time beginning on December 27, 2005, and continuing until January 10, 2006. This request is permissible, even though it extends past the normal vacation request period, because the request begins in December and continues into January without interruption.)

13.4 Unplanned Use of Vacation Leave

(a) Unplanned use of Vacation Leave specifically covers requests other than the selection of vacation dates pursuant to Section 13.3.

(b) Except with the approval of the Fire Chief or his designee, vacation leave shall be taken in segments of not less than twelve (12) hours.

(c) An employee requesting use of vacation leave shall complete the Payroll Exception Form, get it approved by their immediate supervisor, and submit it to their Battalion Chief at least 48-hours in advance of the leave that the employee requested.

(d) Requests for unplanned use of vacation leave shall be made to the Battalion Chief before 1930 hours the evening before. Such requests shall be granted on a first-come, first-serve basis, (with the exception of Section 13.3) and shall be approved based on the operational needs of the shift or division for the time period requested as determined by the Fire Chief or designee.

(e) The parties agree that Section 13.4 can be reopened for negotiation by either party at any time during the term of this Agreement should it be demonstrated that Section 13.4 causes undue hardship on either party. The agreement shall remain in effect as written until such negotiations are completed.

13.5 Upon separation from employment in good standing, employees who have at least six months of service with the City will be paid for vacation leave accrued and not taken at the employee's regular hourly rate of pay.

13.6 Cancellation of Previously Approved Vacation Leave

- (a)** An employee may cancel previously scheduled vacation leave by providing written notice to his or her Battalion Chief, at least forty-eight (48) hours prior to the commencement of such leave.⁵ Except in the case of the actual date of a holiday which is recognized by the City (as opposed to the date which it is observed), vacation leave may be cancelled by the employee with less than forty-eight (48) hours written notice upon mutual agreement of the employee and his or her Battalion Chief.
- (b)** The Fire Chief or his designee may, at any time, cancel an employee's previously scheduled vacation leave in case of an emergency or circumstances beyond the control of the Fire Department.

⁵ Email is acceptable to expedite the required notice. However, the email must be followed up with a signed memorandum for documentation.

ARTICLE 14
SICK LEAVE

14.1 Sick Leave Accrual

- (a) Employees shall accrue sick leave at the rate of twelve (12) hours per month.
- (b) Employees may accrue up to 720 hours of sick leave.

14.2 Employees may use sick leave under the following circumstances:

- (a) When the employee is not able to work due to the employee's personal illness, pregnancy, or non-occupational injury;
- (b) When the employee is not able to work because of the need to attend to a child or spouse who is ill;
- (c) When the employee is responsible for the care of a member of the immediate family who has a serious illness. (For the purposes of this article, immediate family is defined as the employee's spouse, mother, father, sister, brother, half-sister, half-brother, grandparent, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, stepmother, stepfather, stepson, stepdaughter, stepbrother, stepsister, legal guardian, and grandchildren.);
- (d) When the employee or his/her child has an appointment with a physician or dentist.

14.3 Authorization for Sick Leave

- (a) To be eligible for sick leave, an employee must notify the on-duty Battalion Chief no later than 2200 hours the evening before to between the hours of 0600 and 0630 the morning of their scheduled shift if they cannot report to duty due to illness. An employee will not be paid sick leave for any day that the employee fails to timely notify the on-duty Battalion Chief of his/her intended absence. An employee who reports sick prior to the beginning of a shift will be charged for a minimum of twelve (12) hours of sick leave. An employee must notify the on-duty Battalion Chief each day of absence due to use of sick leave, unless the nature of the illness or injury resulting in the use of sick leave is expected to cause the employee to be absent more than three (3) work days, in which case the expected duration of the absence will be communicated to the on-duty Battalion Chief. Employees who are absent for more than one work week shall notify the on-duty Battalion Chief of their status at least once each week.
- (b) Employees shall schedule physician, dentist, optometric, and similar medical appointments (including appointments for children) on their off-duty days. Sick leave will not be approved if the reason why the appointment or visit could not be scheduled on an off-duty day is attributable to the employee. If it becomes

necessary, through no reason attributable to the employee, to take time off for a medical appointment, the employee requesting sick leave shall be required to provide the Battalion Chief with an explanation of why the appointment or visit could not be scheduled on an off-duty day. The scheduling conflict must not be attributable to the employee for sick leave to be approved. In any event, if approved, the employee must take the sick leave in either twelve (12) hour increments from 0730 hours to 1930 hours or 1930 hours to 0730 hours, or eight (8) hour increments from 0730 hours to 1530 hours or 1530 hours to 2330 hours or 2330 hours to 0730 hours, unless otherwise approved by the Battalion Chief.

- (c) The Employer is responsible for authorizing sick leave in every instance and may verify that the reasons for use of sick leave are valid and in accordance with this article.

14.4 Medical Certificates

- (a) (a) The Employer may require a medical certificate signed by a licensed physician to substantiate a sick leave request for sick leave of any duration if the employee in question has demonstrated a pattern of absence from duty and has been advised in writing that a certificate would be required as a result.
- (b) For planning purposes, when an employee or the Employer expects the employee to be absent due to illness or injury for more than five (5) shifts, the Employer may require the employee to submit a statement from the attending physician estimating the expected duration of the illness or injury.
- (c) Certification to Return to Work -The Fire Chief may require any employee who is absent for two (2) or more consecutive shifts, or who has suffered an injury or undergone surgery, to provide a medical certificate stating that the employee is medically able to return to duty, and whether there are any work restrictions on the employee upon his/her return to work.
- (d) The employee is responsible for paying any costs associated with obtaining the medical certificates and/or statements required by this section.

14.5 Refund of vacation time will not be allowed for an illness incurred while on vacation leave. However, when an employee provides proof that he/she was admitted on an overnight basis to a hospital for a serious illness or injury that effectively ended the employee's ability to use his/her vacation time for vacation purposes, the employee will be permitted to substitute sick leave for vacation leave.

14.6 Paid sick leave is a privilege accorded to employees who are not able to perform duties for the Employer due to illness or non-work related injury. An employee on sick leave shall normally be required to stay at his/her residence or authorized location during his/her normal tour of duty, except for:

- (a) obtaining professional medical treatment; or
- (b) performing physical therapy and/or exercise prescribed in writing by his or her physician as part of his or her recovery/treatment plan., in which case a copy of the prescription must be submitted to his or her Battalion Chief prior to commencing such activity; or,
- (c) a visit to a pharmacy to fill a prescription for treatment of the condition that keeps the employee from reporting to work.

The Employer recognizes that there will be valid circumstances whereby an employee may not be able to perform duties for the Employer due to illness or non-work related injury but may nonetheless be ambulatory. In those circumstances, the employee shall inform the Battalion Chief of the particular circumstances. The Battalion Chief shall review the circumstances to determine whether the employee will be required pursuant to this provision to stay at his/her residence during the employee's normal tour of duty.

14.7 Medical Leave buy-back will be in accordance with City policy.

14.8 Under no circumstances will sick leave use be permitted for elective cosmetic surgery not specifically covered in the City of Kissimmee healthcare provider agreement. However, sick leave may be used for elective eye surgery.

ARTICLE 15 **PENSION PLAN**

15.1 Bargaining unit employees will continue to participate in the existing Fire Department Pension Plan.

15.2 The Parties agree to modify the existing Fire Department Pension Plan by adopting the Stop-Restart study (Foster and Foster) dated 12/3/12, which will result in the following pension benefit changes for all employees:

- (a) Increase vesting from 5 years partial to 10-year cliff vesting (all or nothing).
- (b) Increase early retirement reduction to a true and actuarial reduction for future early retirees.
- (c) Increase the number of years for the average final compensation period from the last three (3) years to best five (5) years out of the last ten (10) years.
- (d) One half of the excess state money reserves (\$478,123 as of 9/30/12) will be utilized by the City to offset costs.⁶
- (e) An ad hoc COLA will be granted as set forth in the Ad Hoc COLA Analysis dated 12/3/12.

15.3 In addition to the benefit changes for all employees in Section 15.2, the following benefit changes will affect only those employees hired on or after January 1, 2013.

- (a) Decrease the benefit multiplier from 3.23% to 3.00%.
- (b) Increase the member contribution rate from 1% to 3%.
- (c) ~~Increase the normal retirement date from~~ Eligible for retirement upon the earlier attainment of 50 years of age with 10 years of service, to 55 years of age with 10 years of service, 52 years of age with 25 years of service, or any age with 30 years of service.
- (d) Increase the early retirement date from 40 years of age with 10 years of service, to 50 years of age with 10 years of service.
- (e) Require the member to reach 55 years of age with 10 credited years of service, or 27 years of credited service regardless of age, to be eligible for credit for prior military service.

⁶ The numbers in Section 15.2(d) could potentially change based upon the final actuarial study conducted prior to submitting plan modifications to the Division for approval.

15.4 Upon ratification of this Agreement, a proposed City ordinance modifying the Fire Department Pension Plan will be drafted and submitted to the Division of Retirement of the Florida Department of Management Services (“Division”), for review.

15.5 In the event that the Division rejects any part of the proposed pension modifications, this article will be deemed null and void, and the parties agree to return to the bargaining table to continue pension negotiations.

15.6 For the purposes of retirement calculations, the normal work assignment for employees on 24/48 hour schedules is 2912 hours annually. Effective upon ratification of the collective bargaining agreement, the definition of “salary” in the Firefighters’ Retirement Plan shall be revised to exclude payments for overtime worked in addition to the normal work assignment in excess of 300 hours per calendar year.

ARTICLE 16
TUITION REIMBURSEMENT

16.1 The City may, within available funds and budgetary restraints, reimburse up to one hundred per cent (100%) of the tuition costs incurred by an employee taking approved courses of instruction in pursuit of an approved degree or diploma at an approved institution of higher learning. Approval will be determined by the City Manager, Fire Chief, and Human Resources & Risk Management Director. Nationally and regionally accredited institutions may be authorized for use under this article.

16.2 The following items outline requirements and/or stipulations placed on the reimbursement of an employee's tuition expenses:

- (a) The employee must be a full-time, regular employee throughout the duration of the coursework.
- (b) Educational training can include Associate, Bachelor, or at the City Manager's discretion, Master's degree coursework.
- (c) Tuition reimbursement for each class within the educational program will be restricted, based on its relationship to the job held by the employee and its degree of value to the City, as determined by the Employer.
- (d) Notice to Employer:

1. For budget planning purposes, any employee interested in obtaining tuition reimbursement must turn in a preliminary notice of intent to request tuition reimbursement to the Fire Chief by April 1 for the following fiscal year (October 1 to September 30). This preliminary request does not need to identify the specific course the employee plans to take. Employees turning in this preliminary request form are not obligated to attend class.

2. At least 30 days before the date the employee intends to enroll in a class, employees seeking tuition reimbursement must apply using forms developed by the Employer. Employees must submit a separate form for each class taken. Requests for tuition reimbursement for master's degree courses must be accompanied by a memorandum to the City Manager justifying the applicability of the coursework to the employee's current position with the City.

(e) Subject to the percentage limits set out in Section 16.2(f), tuition reimbursement will be made at the rate of tuition per credit hour at the University of Central Florida or Valencia College, whichever is applicable. If a course of study is not available at a state institution, tuition assistance may be authorized for a course taken at a private college. However, the rate of reimbursement will still be the rate of tuition per credit hour at the University of Central Florida or Valencia College, whichever is applicable. The maximum amount of tuition reimbursement available under this article is \$1,300 per fiscal year.

- (f) The employee must receive a satisfactory passing grade (Pass in a pass-fail system, or a grade of “C” or above in a graded system) in order to receive any tuition reimbursement. Subject to the limits set out in Section 16.2(e), the following percentage of tuition will be reimbursed upon receipt of proof of grade and tuition payment:

Grade of A (or pass)	100% of amount allowed for in Section 16.2(e)
Grade of B	100% of amount allowed for in Section 16.2(e)
Grade of C	75% of amount allowed for in Section 16.2(e)

- (g) Payment of the tuition reimbursement amount will be made when the employee provides proof of payment of the tuition and copies of his/her grade for the course to the Human Resources & Risk Management Department.

- (h) There will be no reimbursement for textbooks, supplies, incidental fees, or late fees.

16.3 Any employee using the tuition reimbursement program will reimburse the City for tuition expenses in the event that the employee does not remain employed with the City for a designated period after course completion.

- (a) The applicable time periods are:

1. Employees taking classes to meet the requirements for an associate degree shall be required to reimburse the City for tuition expenses paid by the City if the employee does not remain employed for at least two years following the date that the course ended.

2. Employees taking classes to meet the requirements for a bachelor’s degree or master’s degree shall be required to reimburse the City for tuition expenses paid by the City if the employee does not remain employed for at least four years following the date that the course ended.

- (b) In the event that an employee must return funds to the City under this provision, the amount that the employee is required to return will be calculated on a pro-rata basis as follows:

1. The employee will be required to pay 50% of the amount for each year of service not completed for those classes where the employee is expected to stay at the City for at least two years;

2. The employee will be required to pay 25% of the amount for each year of service not completed for those classes where the employee is expected to stay at the City for at least four years.

16.4 Employees are required to use off-duty time to attend any course of instruction that is not required by the City.

ARTICLE 17
SAFETY, HEALTH, and JOB RELATED INJURIES

17.1 Safety Equipment

The City will continue to provide proper and necessary safety equipment and devices for employees engaged in hazardous work. When such equipment and devices are provided, they must be used. Failure by employees to utilize provided equipment may result in disciplinary action and loss of workers' compensation benefits.

17.2 Employee Safety Awards

The City may institute employee safety award programs. Safety awards may be made either to groups or to individuals and will normally be made in recognition of praiseworthy or outstanding safety performance.

17.3 Accident Reporting

- (a) All employees are responsible for immediately reporting to their supervisor all injuries or accidents that occur on the job. An accident report must be completed and turned in to the Human Resources & Risk Management Department before close of the next business day. If the incident occurs over a holiday or weekend, the accident report should be submitted no later than twelve noon on the next business day.
- (b) Reporting is required for any property damage, vehicular accident, and/or employee injuries that require first aid treatment or more. In addition, all vehicular accidents, serious injuries, or fatalities require immediate notification of the appropriate law enforcement agency, the Risk Manager, and the employee's supervisor.

17.4 Worker's Compensation

- (a) In the event of a work-related injury or illness, the employee must fill out an accident report form, have it signed by his/her supervisor, and bring it to the Human Resources & Risk Management Department. Arrangements for medical care will be made through the Human Resources & Risk Management Department. The employee will be given a physician's report form to take to the physician, requesting current information on the diagnosis and restrictions surrounding the injury or illness. In emergency situations, an injured employee will be taken to the emergency room and the supervisor must handle the associated paperwork. Any ongoing treatment or physician reevaluation must be scheduled through the Human Resources & Risk Management Department.
- (b) When an employee is allowed to return to work subject to restrictions on his/her movement, lifting abilities, or similar physical limitations, it is presumed that the restrictions apply to the employee's activities both on and off duty. Employees are

expected and required to comply with the restrictions imposed by the physician whether they are on or off duty, unless the physician has expressly stated that the restrictions apply only on duty.

- (c) In the event that an employee will be out for an extended period of time, the Department may need to fill the vacancy. Such requests must be submitted to the Human Resources & Risk Management Director for review. When reasonably practicable, the Employer will meet with the employee to review the situation before making a final decision to fill the employee's position. Determination will be made based on the recuperation status of the injured employee and the need to replace. Vacancies of less than thirty (30) days will not be considered for replacement, except under extreme coverage difficulties.
- (d) When an employee's position is filled, he/she will be considered for the next available Department position, in that classification. In addition, the employee will be considered for other vacancies for which he/she may be qualified.
- (e) In accordance with Florida state workers' compensation regulations, if an injured employee is off work longer than seven (7) days, he/she will be paid 66-2/3% of their average weekly wage. The average weekly wage is based on the previous thirteen (13) weeks' salary, including overtime, standby, and incentive pay.
- (f) An employee may decide to use sick and/or vacation leave for any portion of the lost time not covered under workers' compensation. This must be coordinated through the Human Resources & Risk Management Department.
- (g) Any employee who is not receiving a payroll check is responsible for all deductions for dependent medical and dental care, supplemental life and/or accident insurance, employee retirement contributions, and credit union payments. The Human Resources & Risk Management Department will assist in coordination of these payments.

17.5 Light Duty

- (a) In the discretion of the City Manager, light duty assignments may be provided to employees who are physically unable to perform their normal duties. However, the City is under no obligation to create a light duty assignment if no such assignment is currently available.
- (b) Hours of Work. Employees who are placed in a light duty assignment will normally be assigned to a forty (40) hour work week.
- (c) Off Duty Injuries. Employees who are injured off the job (not a worker's compensation injury) will be compensated only for hours worked, up to forty (40) hours, when placed in a light duty assignment. Such employees may use sick leave, vacation leave, or fire holiday leave to make up their normally scheduled hours.

However, those employees must exhaust any sick leave accumulated before using vacation leave or fire holiday leave.

17.6 The parties agree to comply with all applicable requirements of Section 633.810, Florida Statutes, relating to the establishment and implementation of a workplace safety committee.

17.7 Personal equipment that is specifically assigned to an individual employee shall not be loaned out to a person other than the person to whom the equipment is assigned, except with the permission of the Employer and the person to whom the equipment is assigned.

ARTICLE 18

SENIORITY

18.1 Seniority of a bargaining unit employee will be determined by the employee's date of continuous, full time, permanent employment in a rank covered by the rank and file or supervisory bargaining unit in the Department.

- (a) Seniority of personnel within ranks/positions will be determined by the date the employee was promoted or certified to the title he/she holds. In the event two or more employees have the same promotion/certification date, seniority shall first be established in accordance with examination ranking (position on the list). If this process results in two or more personnel having identical seniority, then the drawing of lots will be utilized to determine seniority.

18.2 Seniority and the employment relationship shall terminate when:

- (a) The employee resigns or is discharged;
- (b) The employee is absent without approved leave for two consecutive work shifts (in the case of a shift worker), or three (3) eight-hour days (in the case of a forty (40) hour per week employee);
- (c) The employee fails to return to work at the end of an approved leave of absence (including but not limited to vacation leave, sick leave, FMLA leave, or any other approved paid or unpaid leave.)

18.3 Lay-off and Work Force Adjustment

- (a) Whenever it becomes necessary to lay off an employee or group of employees due to lack of work, employees will be laid off in inverse order of their seniority within the rank affected by the layoff, unless management determines that laying off in that order will adversely affect the operational needs of the Department.
- (b) Employees affected by a lay-off will have the right, in accordance with their seniority, to transfer or downgrade (commonly known as "bumping") or to take the lay-off.

1. Affected employees shall have five (5) calendar days, from the date they receive notification from management of their lay-off, to notify management whether they desire to bump or take the lay-off. In the event that the Employer notifies the employee of the layoff by mail, the notification will be sent via U.S. Mail with return receipt requested to the employee's address on file at the City's personnel department. If the employee does not receive notice because he/she does not have their current address on file at the personnel department, or because he/she fails to accept delivery of the letter, the employer will treat the letter as delivered on the fifth day after it was mailed. The employee's time to exercise his bumping rights will run from that date.

2. If the employee chooses to bump, the employee shall within the said five (5) calendar days, identify the job position which is the subject of the bump. If the employee possesses the qualifications for that position and has greater seniority within the Department (as defined in Section 18.1 above) than the present occupant of that position, and the bump will not adversely affect the operational needs of the Department, the bump shall take effect within five (5) calendar days from the notification.

3. An employee bumping to a different job classification ("job 2") shall be placed on a trial period of not less than ninety (90) days. If, in the opinion of the Employer, the employee cannot satisfactorily perform the duties of the position to which the employee has bumped, the employee will be laid off, with no further bumping rights. In that event, the employee who was bumped by the employee who did not satisfactorily perform in the "job 2" position will be offered the opportunity to return to that job (subject to the bumping rights of any other employee who has more seniority.)

4. An employee bumping to a job classification which is lower than the employee's present job classification will be paid at his present pay rate or the maximum rate of the lower classification, whichever is lower.

- (c) Recall of laid-off employees will be made by seniority.
- (d) In order to be eligible for recall, the employee must have maintained his or her certifications, and must keep the Employer advised of his or her current address. Employees shall be recalled by written notification by certified mail, return receipt requested to their last known address. Recalled employees shall notify the Employer if their desire to return to work within five (5) days of receipt of the recall notice and must return to work within twenty-one (21) days from receipt of the recall notice.
- (e) The Employer is only required to recall an employee to the last classification that he/she previously held in a permanent capacity. If an employee refuses a job with the Employer in any classification in which he/she was previously employed, the employee shall lose all further recall rights.
- (f) An employee will be kept on the callback list for one (1) year from the date of the employee's layoff. After this period, the Employer will no longer be obligated to recall the employee.
- (g) When an employee is laid off, the employee's seniority shall be frozen during the period of time that the employee retains recall rights. If the employee is recalled, the employee retains the seniority he/she had prior to the layoff.
- (h) New hire probationary employees have no right to recall under this provision.

18.4 An employee's seniority shall only entitle the employee to the rights expressly provided for in this Agreement.

ARTICLE 19
STAFFING

19.1 The Employer agrees that it will adequately staff all equipment with due regard for the needs of the community, the safety of bargaining unit employees, the requirements of the apparatus, and similar relevant factors. The Union has the right to provide written input to the Employer about staffing needs.

19.2 The station Lieutenant (or acting station Lieutenant) shall be responsible for vehicle assignments within his or her own crew. Management reserves the right to modify such assignments as necessary, provided crew safety is not compromised.

ARTICLE 20

TIME EXCHANGE

20.1 For purposes of this article, a “time exchange” is defined as a voluntary agreement between two employees to “trade” or “exchange” the time that they are normally scheduled to work. The parties acknowledge that time exchanges are done voluntarily by the employees involved in the exchange.

20.2 Subject to the requirements of this article, employees may voluntarily exchange times provided that:

- (a) The time exchange does not interfere with the regular operations of the Department.
- (b) It is requested and approved by their immediate supervisor or the on-duty supervisor at their assigned duty station not less than 12 hours in advance. Upon approval the immediate supervisor shall notify the on-duty Battalion Chief.
- (c) The time exchange does not result in any additional cost or expense to the Employer.
- (d) The employee filling in during the time exchange must be fully qualified to perform all of the regular duties of the person requesting the time exchange.

20.3 An employee who wishes to exchange a scheduled time is solely responsible for locating a willing and qualified person with whom to make the exchange, and for timely submitting all documentation necessary to obtain authorization for the exchange.

20.4 Any employee wishing to exchange scheduled time must submit a completed “Notice for Time Exchange” to their immediate supervisor and forward such request to the Battalion Chief not less than 12 hours in advance of the proposed time exchange. The Battalion Chief, in his/her sole discretion, may accept a Notice submitted with less than 12 hours advance notice of the proposed time exchange. The Notice shall include the name of the employee who will be filling in during the time exchange. The employee filling in during the time exchange must be fully qualified to perform all the duties of the person requesting the time exchange. The Battalion Chief will promptly review the “Notice for Time Exchange” and advise the employees involved whether the exchange has been approved. If the person filling in is qualified to work the time exchange, the Battalion Chief will not deny the request for a time exchange except in an emergency, or in some other case for an extraordinary cause.

20.5 When an employee of lower rank fills in for another employee, the employee who is filling in will not receive “ride-up” pay, and the employee who requested the exchange will not be allowed to function below his/her/their rank to repay the time exchange.

20.6 In the event that an employee who is supposed to fill in during a time exchange is unable to do so, that employee is responsible for notifying the normally scheduled employee's

supervisor of the situation. The employee who is supposed to fill in will also be required to contact the employee who was scheduled to work to notify that employee of the situation. The employee who was originally scheduled to work shall then report for work as scheduled, if that employee is available.

20.7 In cases where the employee who was scheduled to work cannot be located or is otherwise unable to work, the employee who agreed to the time exchange shall make every effort to locate another qualified employee to fulfill the time exchange. If those employees are not successful in locating another qualified employee to work the time, then the Employer will call in a qualified employee. In that case, the employee who initiated the time exchange shall be charged for the use of vacation time, or compensatory time, or fire holiday time, for the time that the initiating employee had been scheduled to work. The employee who was supposed to fill in, but failed to do so, will not be permitted to do a time exchange for six (6) months from the date that he/she failed to report for the time exchange. In the event that the employee who was supposed to fill in failed to do so because of an unforeseen emergency as determined by the Employer, then that employee will not be prohibited from doing time exchanges as a result of the failure to report.

20.8 Any time exchange of 30-minutes or less, which wholly occurs between the hours of 0700 and 0800 hours shall only require the verbal approval of the station officer and will not be subject to the requirements of Section 20.2 (b) or Section 20.4.

~~In the event that an employee who is supposed to fill in during a time exchange is unable to do so, that employee is responsible for notifying the normally scheduled employee's supervisor of the situation. The employee who is supposed to fill in will also be required to contact the employee who was scheduled to work to notify that employee of the situation. The employee who was originally scheduled to work shall then report for work as scheduled, if that employee is available.~~

~~**20.7**—In cases where the employee who was scheduled to work cannot be located or is otherwise unable to work, the employee who agreed to the time exchange shall make every effort to locate another qualified employee to fulfill the time exchange. If those employees are not successful in locating another qualified employee to work the time, then the Employer will call in a qualified employee. In that case, the employee who initiated the time exchange shall be charged for the use of vacation time, or compensatory time, or fire holiday time, for the time that the initiating employee had been scheduled to work. The employee who was supposed to fill in, but failed to do so, will not be permitted to do a time exchange for six (6) months from the date that he/she failed to report for the time exchange. In the event that the employee who was supposed to fill in failed to do so because of an unforeseen emergency as determined by the Employer, then that employee will not be prohibited from doing time exchanges as a result of the failure to report.~~

~~**20.8**—Any time exchange of 30-minutes or less, which wholly occurs between the hours of 0700 and 0800 hours shall only require the verbal approval of the station officer and will not be subject to the requirements of Section 20.2 (b) or Section 20.4.~~

ARTICLE 21
UNIFORMS, EQUIPMENT and PERSONAL APPEARANCE

21.1 All trousers, shirts (work and dress), jacket, caps, gym shorts, sweat pants, sweat shirts, insignia, and all other uniform items which employees are required to wear in performance of their work shall be furnished by the City to employees without cost. It shall be the obligation of the employees to maintain all items in good and presentable condition, and to notify the City in advance of a need for replacement of any item. If any changes are made to the required style or appearance of uniforms by the City, the City will bear the cost of having uniform items altered or replaced to conform to the required changes. The City will continue to follow existing procedures related to replacement of worn or damaged uniforms and equipment.

21.2 The City will provide facilities for the washing of contaminated protective gear and uniform items.

21.3 The City and bargaining unit employees will follow the Department's Biohazardous Waste Disposal Procedure, which may be amended from time to time to comply with applicable state and federal law.

21.4 The City will repair or replace an employee's prescription eyewear or wristwatch that is damaged or destroyed while in the performance of an employee's duty, subject to the following requirements:

- (a) The maximum amount payable under this provision is \$200 for prescription eyewear and \$100 for a wristwatch.
- (b) The employee must make a written claim for the repair or replacement cost within 7 calendar days of the date that the item was damaged or destroyed.
- (c) The written claim will be submitted to the Battalion Chief. The claim shall describe the item damaged or destroyed, explain how the item was damaged or destroyed, and include a receipt for its replacement or repair. The Employer may require the employee to submit the damaged item for inspection before paying the claim.
- (d) The City will not repair or replace any item that was damaged or destroyed due to the negligence of the employee.

21.5 City furnished protective clothing, safety devices, and/or equipment shall remain on the premises at all times except when in use, or to "float" to another station, or for some other reason authorized by the employee's Battalion Chief.

21.6 Bargaining unit employees are free to wear or not wear an IAFF pin on their uniform, subject to the provisions of this subsection. The cost of the IAFF pin will be paid by the employee. The IAFF pin shall be no larger than a nickel. The Fire Chief will designate the area of the uniform where IAFF pins may be worn.

ARTICLE 22
VACANCIES and TRANSFERS

22.1 Definitions. – The following definitions apply for the purposes of this article:

- (a)** “Vacancy” – means a newly created position resulting from the opening of a new Fire Department station, or the placement of a newly created and staffed apparatus/resource (equipment or individual) into operation.
- (b)** “Qualifications” – the employee’s ability to efficiently and effectively assume the responsibilities and duties of a given position, as determined by management.
- (c)** “Transfer”- means a regular opening in any existing unit position, e.g., as a result of a retirement, promotion, etc. A transfer can mean movement from shift to shift. It can also mean a reassignment from one unit to another unit on the employee’s original shift. A transfer shall be determined by management.

22.2 The Employer shall determine whether to fill any vacancy, in compliance with Article 19 Staffing.

22.3 Whenever the Fire Chief or designee determines to fill a vacancy the Fire Department will provide notice of the vacancy by posting notices through e-mail or other formal official Department communication. The notice will announce the vacancy and advise employees how to request assignment to the position and the deadline for submission for the vacancy. At the end of the application period, the Employer will review and process the applications for the vacancy as follows:

- (a)** Vacancies shall be filled based on qualifications of the applicants, as established in prior writing by the Employer.
- (b)** Where two or more applicants have the same qualifications, the opening will be filled by the senior most qualified applicant.

22.4 When no employees apply for a posted vacancy, the Fire Chief or designee shall administratively select the least senior qualified employee, as determined by management, to fill the vacancy.

22.5 Subject to the requirements listed in this article, nothing in this Agreement shall be construed to limit the right of the Employer to transfer an employee, or to deny an employee’s request to transfer.

ARTICLE 23
MISCELLANEOUS

23.1 Mileage

Employees who are authorized by the Fire Chief or designee to use their own vehicles in the performance of their official employment duties will be reimbursed for mileage at the rate set by the City Commission for all City employees. For the purpose of this section, “official employment duties” shall not include station to station transfers that have been approved by the Fire Chief or designee. Employees seeking mileage reimbursement are required to submit their requests for reimbursement on a monthly basis on forms provided by the Employer. A failure to timely submit a reimbursement request may result in denial of payment.

23.2 Notice of Legal Action

Employees will promptly deliver to the Employer all legal papers or notices of intent to bring suit served upon or otherwise delivered to them related to lawsuits brought against the employee for actions of the employee while on duty.

23.3 Employer Defense of the Employee

The Employer will defend an employee in any civil action arising from a complaint for damages or injury suffered as a result of any alleged act or omission of action of the employee, provided such alleged act or omission arises out of and is in the scope of his/her employment and function. The Employer is not obligated to defend an employee who has acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. If the Employer elects not to represent an employee, it shall notify the employee of such decision in writing as soon as practicable after the decision to grant or deny coverage is made.

23.4 Weingarten Right

In all cases where an employee is to be interviewed or required to respond to a written inquiry concerning an alleged violation of Department or City rules or regulations, which, if proven, may result in loss of pay or position or in some other disciplinary measure, including an oral or written reprimand, he/she shall be afforded a reasonable opportunity and facilities to contact and consult privately with a representative of the Association (who may be an attorney) before being interviewed. The Association representative may be present during the questioning. Where the Association representative is not immediately available and conditions permit, the interview will be postponed for a reasonable period of time, provided that no interview need be postponed for more than four (4) hours because of unavailability of an Association representative. However, should the Employer determine to proceed with the interview, the employee shall be permitted to select a fellow employee to witness and/or advise him/her during the interview.

ARTICLE 24

GRIEVANCE AND ARBITRATION PROCEDURE

24.1 In a mutual effort to promote harmonious working relations between the parties to the Agreement, it is agreed to and understood by both parties that there shall be a procedure for the resolution of grievances or misunderstandings between the parties arising from the application and interpretation of this Agreement.

24.2 A grievance shall be defined as a dispute concerning the interpretation or application of the specific terms of this Agreement. A grievance shall also be defined as a dispute concerning the interpretation or application of the Fire Department's Policy and Procedure on promotion to Engineer and Lieutenant.

24.3 Where a grievance is general in nature, in that it applies to a number of employees having the same issue to be decided, it shall be presented directly at Step 3 of the Grievance Procedure within the same time limits provided for the submission of a grievance in Step 1, and shall be signed by the aggrieved employees and/or by the Union representative on the employees' behalf.

24.4 The Union has the right to initiate grievances based upon the Employer's upper management decisions which have general applicability to bargaining unit members, where such decisions give rise to disputes about the interpretation or application of the specific terms of this Agreement. Union grievances filed pursuant to this subsection shall be initiated at Step 3 of the grievance procedure within the same time limits provided for submission of a grievance in Step 1.

24.5 All grievances must be processed within the time limits provided in the grievance procedure unless extended by mutual agreement of the parties in writing. Any grievance not presented by the grievant within the applicable time limits shall be deemed abandoned. Any grievance not answered by management within the time limits provided in the grievance procedure shall be determined to be denied and shall be advanced to the next available step of the grievance procedure, unless an extension of time for an answer is mutually agreed to in writing.

24.6 Grievances shall be processed in accordance with the following procedures:

Step 1. The aggrieved employee shall reduce to writing on the standard form provided for this purpose (Appendix C) and present such written grievance to his/her Battalion Chief within seven (7) calendar days of the occurrence which gave rise to the grievance, or within seven (7) calendar days of the date that the grievant knew or should have known of the facts giving rise to the grievance. The Battalion Chief shall meet with the employee and the Union representative, if the employee wishes his assistance, within seven (7) calendar days of the date the grievance is presented. The Battalion Chief shall attempt to adjust the matter and/or respond to the employee in writing within seven (7) calendar days from the date of the meeting.

Step 2. If the grievance has not been satisfactorily resolved, the aggrieved employee and the Union representative, if the employee wishes his assistance, shall

reduce to writing on the standard form provided for this purpose (Appendix C) and present such written grievance to the Deputy Chief (or designee) within seven (7) calendar days from the date of the Battalion Chief's response at Step 1 (or the time the Battalion Chief's response was due in Step 1, if the Battalion Chief has not responded to the grievance). The Deputy Chief (or designee) shall meet with the employee and the Union representative, if they wish him present, within seven (7) calendar days. The Deputy Chief (or designee) shall respond in writing within seven (7) calendar days from the date of the meeting.

Step 3. If the grievance has not been satisfactorily resolved, the aggrieved employee and the Union representative, if the employee wishes his assistance, shall reduce to writing on the standard form provided for this purpose (Appendix C) and present such written grievance to the Fire Chief or his designee within seven (7) calendar days from the date of the supervisor's Step 2 response (or the time the supervisor's response was due in Step 2 if the supervisor has not responded to the grievance). The Fire Chief or his designee shall meet with the employee and the Union representative, if the employee wishes him present, within seven (7) calendar days. The Fire Chief or his designee shall respond in writing within seven (7) calendar days from the date of the meeting.

Step 4. If the grievance has not been satisfactorily resolved in Step 3, the employee may present the grievance to the City Manager, within ten (10) calendar days from the date of the response at Step 3 (or from the time the response was due in Step 3 if no response is provided). The City Manager shall meet with the employee and the Union representative within ten (10) calendar days. The City Manager shall respond in writing within fifteen (15) calendar days from the date of the meeting.

Step 5. If a grievance, as defined in this article, has not been satisfactorily resolved within the grievance procedure the Union may request arbitration in writing to the office of the City Manager no later than thirty (30) calendar days after the date of the City Manager's response (or from the date that the City Manager's response is due in Step 4 if no response is provided). The parties to this Agreement will mutually agree, or attempt to agree, on an independent arbitrator. If this cannot be done, one will be selected, by striking, from a list mutually requested from the Federal Mediation and Conciliation Service.

24.7 The arbitration shall be conducted under the rules of the American Arbitration Association except to the extent modified in this Agreement. Subject to the following, the arbitrator shall have the jurisdiction and authority to decide a grievance as defined in the article:

- (a) The arbitrator's decision shall be final and binding, but the arbitrator shall have no power to alter, modify, amend, add to or detract from the terms of the Agreement. The decision shall be within the scope and terms of the Agreement and shall be made in writing and shall be final and binding on all parties.

- (b)** The arbitrator shall confine his decision to the particular issue as specified in the written statement of the grievance as presented in Step 1 of the grievance procedure.
- (c)** Copies of the award of the arbitrator, made in accordance with the jurisdictional authority conferred under this Agreement, shall be furnished to both parties within thirty (30) days of the hearing, unless the parties mutually agree to extend the time limit, and shall be final and binding upon both parties.
- (d)** Each party shall bear the expense of its own witnesses and its own representatives. The parties shall bear equally the expense of the impartial arbitrator. Any party requesting a copy of the transcript of the arbitration hearing shall bear its cost, unless otherwise agreed.

ARTICLE 25
SEVERABILITY

In the event that any article, section, or other provision of this Agreement should be found invalid, unlawful, or unenforceable by reason of any existing or subsequently enacted legislation or judicial decision, all other provisions of this Agreement shall remain in full force and effect for the duration of the Agreement. The article, section, or provision found invalid, unlawful, or unenforceable shall be subject to renegotiation at the request of either party to this Agreement.

ARTICLE 26

FUNERAL LEAVE

26.1 In the event of the death of an immediate family member, an employee may take up to two (2) shifts of funeral leave (in the case of a shift worker), or three (3) eight-hour days (in the case of a forty (40) hour employee) to attend to the funeral and arrangements. If the employee must be off longer to attend a funeral out of state, the employee may be allowed to use up to three (3) shifts of funeral leave (in the case of a shift worker), or five (5) eight-hour days (in the case of a forty (40) hour employee). In the event an employee requires additional time off, the Fire Chief may authorize the use of sick or vacation leave.

26.2 For the purposes of this article, immediate family members shall be limited to the employee's spouse, child (including stepchild), mother (including stepmother), father (including stepfather), brother (including stepbrother or half-brother), sister (including stepsister or half-sister), grandmother, grandfather, mother-in-law, father-in-law, any family member living in the employee's household, or any individual for whom the employee serves as the legal guardian.

26.3 An employee on a scheduled vacation who suffers the loss of an immediate family member may elect to take funeral leave instead of vacation time.

26.4 In all instances of requested funeral leave, the employee may be required to provide the Chief, or his designee, with proof of death, as well as proof of the relationship to the family member, prior to leave being granted.

26.5 In the event an employee does not have sufficient leave to accommodate his or her necessary funeral leave, the City will advance the employee the necessary sick leave. However, any such employee advanced leave for funeral purposes shall forgo all sick leave accrual until such time as the advanced leave has been recouped by the City.

26.6 In the event an employee who has been advanced sick leave for funeral purposes leaves City employment prior to the City recouping all leave advanced, the employee shall be responsible for reimbursing the City the cash value for all advanced leave not recouped.

ARTICLE 27
ANNUAL PHYSICALS

27.1 All employees with more than one (1) year of service shall be required to complete a medical examination on a calendar year basis.

- (a)** Medical examinations and tests may be performed at the City's Clinic while the employee is on duty, or employees may elect to utilize their own physician off-duty.
- (b)** The City's Motivate Me program runs between November 1st and October 31st each year.

ARTICLE 28
SPECIAL EVENTS/STANDBY DETAIL/PUBLIC EDUCATION

288.1 The City of Kissimmee Fire Department (Department) is responsible for providing emergency vehicles, firefighters, EMTs, paramedics, and supervisors to support special events, standby, or public education. Once the Department receives a request, the Fire Chief or their designee will decide if the request will be filled by on-duty or off-duty personnel and the number needed for the request. The process in this article does not apply to circumstances where the Fire Chief or their designee chooses to use on-duty units to support a special event, standby, or public education request.

288.2 An Administration Lieutenant or the Fire Chief's designee will maintain the special events, standby requests, or public education eligibility list (events eligibility list). When the Department requests staffing for special events, standby requests, or public education, an email will be sent to an Administration Lieutenant requesting the number of members needed, date, time, and event. An Administration Lieutenant will email the eligible members for the assignments with the number of members required, date, time, and event. The email will also contain the deadline for signing up. If more members sign up than are needed, then the events eligibility list will be used to decide who will be qualified to work the event. The award of the off-duty assignment will be based on seniority and current accumulated hours. For example, those with no hours will have precedence over those with hours based on seniority. Note: a half hour before and after the event will be added for logistical purposes.

-
- (a) If a Lieutenant (supervisor) is needed for special events, standby, or public education, the compensation shall be \$50.00 per/hour. If their overtime rate exceeds \$50.00 an hour, the overtime rate shall be used for compensation. Administration Lieutenants will have the right of first refusal for supervisory positions. Administration Lieutenants will not be part of the events eligibility list. The Fire Chief may designate a Chief Officer in place of a Lieutenant for a supervisory position. Qualified Ride-Up Lieutenants may be used for the event if no Lieutenant or Acting Lieutenants are available.
- (b) If an Engineer or Firefighter is needed for special events, standby, or public education. The compensation shall be \$40.00 per/hour. If their overtime rate exceeds \$40.00 an hour, their overtime rate shall be used for compensation. For special events, standby, or public education, an Engineer and Firefighter are considered equal unless the event needs a vehicle that mandates an Engineer. Administration Lieutenants will have the right of first refusal for these positions.

28.3 One EMT and one Paramedic shall fill all EMS requests. Two paramedics may be assigned if no EMTs sign up. All special events, standby, or public education details will pay a minimum of 4 hours. If the need is canceled 24 hours before the scheduled detail, the department shall pay the minimum of 4 hours, and the members will receive the pay and credit for three hours worked.

28.4 This article shall expire at midnight on **September 30, 2024**. Both management and labor must agree to renew this Article in subsequent contract years.

ARTICLE 29
DURATION OF AGREEMENT

29.1 Duration: Except as otherwise provided herein, the provisions of this agreement shall be effective beginning on the date of ratification and shall thereafter continue in full force and effect until midnight on the 30th day of September, 2024. The Rank and File Unit and the Supervisory Unit shall each ratify separately, and the Agreement will be effective as to each unit on the respective date of the unit's ratification.

~~**29.2**—For the second year of this Agreement, beginning October 1, 2023, the Parties agree to reopen Article 8, Wages.~~

29.22 Status Quo: If a successor agreement has not been reached before the expiration of this Agreement, the wages, hours, and other terms and conditions of employment set out in this Agreement will remain in effect until new terms and conditions have been established pursuant to law.

29.33 Notice: Any notice to be given shall be given by certified mail, email, or hand delivery.

(a) Any Union notice sent to the City shall be addressed to:

Director of Human Resources & Risk Management (Roxane Walton)
City of Kissimmee
101 Church Street
Kissimmee, FL 34741-5054
E-mail: rwalton@kissimmee.org

(b) Any City notice sent to the Union shall be addressed to:

Kissimmee Professional Fire Fighters, IAFF Local 4208
3117 Innovation Drive
St. Cloud, FL 34769

Or

To the current Union President

29.44 During the negotiations, which led up to the execution of this Agreement, each party had an unlimited right and opportunity to raise issues and bargain concerning any negotiable subject it desired. Accordingly, the parties agree that, except upon mutual agreement, neither will be obligated to bargain further during the life of this Agreement concerning any matter referred to or covered by this Agreement, except as provided within the Agreement or by law.

SIGNATURE PAGE

In witness hereof, the parties have signed this Agreement on this ____ day of _____, 2023.

CITY OF KISSIMMEE

**KISSIMMEE PROFESSIONAL
FIRE FIGHTERS
IAFF LOCAL 4208**

Olga Sanchez de Fuentes, City Attorney

Stephen Gonnella, Chief Negotiator
President, IAFF Local 4208

Mike Steigerwald, City Manager

Michelle Muckerman
Vice President, IAFF Local 4208

Roxane Walton, Director
Human Resources and Risk Management

Bryan Benson
Negotiating Team

Jim Walls, Fire Chief

Royce Schoby
Negotiating Team

Jeremy F. Donovan, Deputy Fire Chief

Joseph Leone, Deputy Fire Chief

Eric Gentry, Battalion Chief

Ratified by the City Commission this ____ day of _____, 2023.

Olga Gonzalez, Mayor-Commissioner

Approved as to form and legality:

Olga Sanchez de Fuentes, City Attorney

Date

APPENDIX A - FIREFIGHTERS BILL OF RIGHTS

Sections 112.80 – 112.93, Florida Statutes, (the “Firefighters Bill of Rights”) is hereby incorporated by reference in this Agreement.

This appendix is attached for information and ease of reference only. The parties do not intend for the Firefighters Bill of Rights to be a part of the collective bargaining agreement.

It is the intent of the parties to maintain a copy of the current version of the Firefighters Bill of Rights as an appendix. In the event that there is any difference between the appendix and the current statutory version, the parties recognize that the current statutory version controls.

Appendix B –Step Plan

	5% Cola	2022-2023						
	Firefighter	Firefighter	Engineer	Engineer	LT	LT	FA LT	FA LT
Step	Hourly/ 2912	1 Step	Hourly/ 2912	1 Step	Hourly/ 2912	1 Step	Includes \$5.00/hour	1 Step
1	15.75	45,864.00	19.17	55,823.04	21.20	61,734.40	34.68	72,134.40
2	15.79	45,980.48	19.75	57,497.73	21.84	63,586.43	35.57	73,985.60
3	16.26	47,359.89	20.34	59,222.66	22.49	65,494.02	36.49	75,899.20
4	16.75	48,780.69	20.95	60,999.34	23.17	67,458.85	37.43	77,854.40
5	17.25	50,244.11	21.58	62,829.32	23.86	69,482.61	38.41	79,892.80
6	17.77	51,751.44	22.22	64,714.20	24.58	71,567.09	39.41	81,972.80
7	18.30	53,303.98	22.89	66,655.63	25.31	73,714.10	40.44	84,115.20
8	18.85	54,903.10	23.58	68,655.30	26.07	75,925.53	41.50	86,320.00
9	19.42	56,550.19	24.28	70,714.96	26.86	78,203.29	42.60	88,608.00
10	20.00	58,246.70	25.01	72,836.41	27.66	80,549.39	43.73	90,958.40
11	20.60	59,994.10	25.76	75,021.50	28.49	82,965.87	44.89	93,371.20
12	21.22	61,793.92	26.54	77,272.14	29.35	85,454.85	46.08	95,846.40
13	21.86	63,647.74	27.33	79,590.31	30.23	88,018.49	47.32	98,425.60
14	22.51	65,557.17	28.15	81,978.02	31.13	90,659.05	48.59	101,067.20
15	23.19	67,523.89	29.00	84,437.36	32.07	93,378.82	49.89	103,771.20
16	23.88	69,549.60	29.87	86,970.48	33.03	96,180.18	51.24	106,579.20
	10% Cola	2023-2024						
	Firefighter	Firefighter	Engineer	Engineer	LT	LT	FA LT	FA LT
Step	Hourly/ 2912	1 Step	Hourly/ 2912	1 Step	Hourly/ 2912	1 Step	Includes \$5.00/hour	1 Step
1	17.33	50,450.40	21.09	61,405.34	23.32	67,907.84	37.65	78,307.84
2	17.37	50,578.53	21.72	63,247.50	24.02	69,945.08	38.63	80,345.08
3	17.89	52,095.88	22.37	65,144.93	24.74	72,043.43	39.64	82,443.43
4	18.43	53,658.76	23.04	67,099.28	25.48	74,204.73	40.68	84,604.73
5	18.98	55,268.52	23.73	69,112.26	26.25	76,430.87	41.75	86,830.87
6	19.55	56,926.58	24.45	71,185.62	27.03	78,723.80	42.85	89,123.80
7	20.14	58,634.38	25.18	73,321.19	27.85	81,085.51	43.98	91,485.51
8	20.74	60,393.41	25.93	75,520.83	28.68	83,518.08	45.15	93,918.08
9	21.36	62,205.21	26.71	77,786.45	29.54	86,023.62	46.36	96,423.62
10	22.00	64,071.37	27.51	80,120.05	30.43	88,604.33	47.60	99,004.33
11	22.66	65,993.51	28.34	82,523.65	31.34	91,262.46	48.88	101,662.46
12	23.34	67,973.31	29.19	84,999.36	32.28	94,000.33	50.19	104,400.33
13	24.04	70,012.51	30.07	87,549.34	33.25	96,820.34	51.55	107,220.34
14	24.76	72,112.89	30.97	90,175.82	34.25	99,724.95	52.94	110,124.95
15	25.51	74,276.27	31.90	92,881.09	35.27	102,716.70	54.38	113,116.70
16	26.27	76,504.56	32.85	95,667.53	36.33	105,798.20	55.86	116,198.20

-	2021- 2022	-
Firefighter	Engineer	LT
	-	-
42,501	53,166	58,770
43,777	54,761	60,533
45,090	56,404	62,349
46,443	58,096	64,220
47,836	59,840	66,146
49,271	61,635	68,131
50,749	63,483	70,174
52,271	65,387	72,279
53,839	67,350	74,448
55,454	69,370	76,682
57,118	71,451	78,982
58,832	73,594	81,352
60,597	75,803	83,792
62,415	78,077	86,306
64,287	80,419	88,895
66,216	82,831	91,562

Appendix C

City of Kissimmee
FIRE DEPARTMENT
CONTRACT GRIEVANCE PROCEDURE FORM

This form is utilized only for grievances as defined by Article 24 of the Collective Bargaining Agreement. For grievances relating to discipline, the standard City Grievance form (found at U:\PERSONNEL\FORMS) shall be used.

NAME(s): _____

RANK(s): _____

ASSIGNMENT(s): _____

CBA ARTICLE & SECTION # BEING DISPUTED:

STATEMENT OF GRIEVANCE (attached memo if needed):

REQUESTED SOLUTION (attached memo if needed):

SIGNATURE(S): _____ DATE _____

PROCEDURE

Step 1:

Presented to: _____ on _____
Name/Title Date

Battalion Chief's comments and actions: _____

Signature (Battalion Chief) Date

Step 2:

Presented to: _____ on _____
Name/Title Date

Deputy Chief's comments and actions: _____

Signature (Deputy Chief) Date

Step 3:

Presented to: _____ on _____
Name/Title Date

Fire Chief's comments and actions: _____

Signature (Fire Chief) Date

Step 4:

Presented to: _____ on _____
Name/Title Date

City Manager's comments and actions: _____

Signature (City Manager) Date

Step 5:

Presented to: _____ on _____
Name/Title Date

Arbitrator's comments and actions: _____

Signature (Arbitrator) Date

COLLECTIVE BARGAINING AGREEMENT

CITY OF KISSIMMEE

and

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 4208

Rank and File Unit (Cert #1400)

AND

Supervisory Unit (Cert #1401)

Effective October 1, 2022 to September 30, 2024

TABLE OF CONTENTS

<u>Article</u>	<u>Item</u>	<u>Page</u>
	Preamble	4
1	Recognition	5
2	Management Rights	6
3	Probationary Employment	8
4	Union Activity	9
5	Dues Deduction	12
6	Bulletin Boards	13
7	Labor Management Communications	14
8	Wages	15
9	Out Of Classification	20
10	Hours Of Work And Overtime	21
11	Compensatory Time	25
12	Holiday Leave	26
13	Vacation Leave	29
14	Sick Leave	33
15	Pension Plan	36
16	Tuition Reimbursement	38
17	Safety, Health, And Job Related Injuries	40
18	Seniority	43
19	Staffing	46
20	Time Exchange	47
21	Uniforms, Equipment And Personal Appearance	49

22	Vacancies And Transfers	49
23	Miscellaneous	50
24	Grievance And Arbitration Procedure	52
25	Severability	55
26	Funeral Leave	56
27	Annual Physicals	57
28	Special Events/Standby Detail/Public Education	58
29	Duration of Agreement	60
	Signature Page	61
	Appendix A - Firefighters Bill Of Rights	62
	Appendix B – Step Plan	63
	Appendix C – Grievance Form	64

PREAMBLE

This Agreement is entered into between the City of Kissimmee, hereinafter referred to as “City,” or “Employer” and the Kissimmee Professional Firefighters, Local Number 4208, hereinafter referred to as “Union.”

ARTICLE 1 **RECOGNITION**

1.1 The Employer recognizes the Union as the exclusive representative for the purposes of collective bargaining with respect to wages, hours, and other terms and conditions of employment for the following bargaining units:

- (a) Rank and File unit** described in PERC Certification No. 1400 (June 23, 2003):

Included: All full-time certified firefighters in the job classifications of Firefighter and Engineer.

Excluded: Fire Chief, Deputy Fire Chief, Health & Safety Chief, Battalion Chief, Fire Inspector, Lieutenant, Health and Safety Lieutenant, EMS Lieutenant, and all other employees of the City of Kissimmee.

- (b) Supervisory unit** described in PERC Certification No. 1401 (June 23, 2003):

Included: All full-time certified firefighters in the job classifications of Lieutenant.

Excluded: Fire Chief, Deputy Fire Chief, Health and Safety Chief, Battalion Chief, Fire Inspector, Engineer, Firefighter, and all other employees of the City of Kissimmee.

1.2 The provisions of this Agreement shall apply to both of the above bargaining units, except where separate provisions are expressly set out for each individual unit.

ARTICLE 2

MANAGEMENT RIGHTS

2.1 The Union recognizes that, except to the extent that the Employer has agreed otherwise by the express terms of this Agreement, the Employer retains all the rights and the authority it has previously exercised in the delivery of Fire/EMS services to the citizens of the City of Kissimmee and in the organization and direction of the public employees who provide such services. Nothing in this Agreement shall be deemed to constitute an undertaking by the Employer to guarantee the continuation of any job, operation, or portion thereof, currently performed by unit employees. Nothing in this Agreement shall be deemed a guarantee of employment to any unit employee.

2.2 In accord with the provisions of Section 447.209, Florida Statutes, the Employer retains the exclusive right and authority to determine unilaterally the purpose of each of its constituent agencies; to set standards of services to be offered to the public; to exercise control and discretion over its organization and operations; to direct its employees; and to relieve its employees from duty because of lack of work or for other legitimate reasons.

2.3 In accord with Section 447.209, Florida Statutes, the employer retains the following management rights, but only to the extent that they are not limited by the express terms of this Agreement:

- (a)** Make and change reasonable rules and regulations;
- (b)** Determine the basis for selection, retention, and promotion of employees to or for positions inside or outside the bargaining unit;
- (c)** Determine the qualifications for employees and the contents of job classifications;
- (d)** Determine the work assignments of employees;
- (e)** Change or eliminate existing work procedures and equipment utilization;
- (f)** Transfer, subcontract, or eliminate work, including work performed by bargaining unit members;
- (g)** Schedule and reschedule working hours, starting and quitting times for employees in the bargaining unit, subject to the express terms of this Agreement;
- (h)** Establish and enforce quality and quantity standards and judgment of workmanship required;
- (i)** Determine services to be rendered;
- (j)** Determine the locations of business activities including the establishment of new ones and the relocation and/or closing of existing ones.

2.4 It is further agreed that the above detailed enumeration of management rights shall in no way be deemed to exclude any other management prerogatives that may not have been specifically enumerated.

2.5 The Union recognizes and agrees that the Employer retains sole and exclusive rights to manage its affairs in all respects and as to all matters in connection with the exercise of such rights; and specifically, that nothing in this Agreement shall be construed as delegating to another the authority conferred by law on any member or official of the City of Kissimmee or in any way abridging or reducing such authority.

2.6 The Union agrees, in recognition of management's rights, not to request the Employer to bargain with respect to the foregoing during the life of this Agreement. However, should decisions on the above matters have the practical consequence of violating the terms and conditions contained in this Agreement, the exercise of such management rights shall not preclude employees or the Union from raising grievances.

2.7 The Employer recognizes that if decisions on the matters listed in Section 2.3 have a direct and substantial impact on the wages, hours, or terms and conditions of employment of bargaining unit employees, the Union has the right, except as provided by law in the case of exigent circumstances, to bargain regarding the impact of such decisions upon bargaining unit employees prior to the implementation of such decisions.

ARTICLE 3
PROBATIONARY EMPLOYMENT

All employees newly hired shall be required to serve a probationary period of 12 months. The Employer may extend the probationary employment period to allow the Employer an extended period of time within which to evaluate the employee's ability to successfully complete probation and become a permanent employee. Newly hired probationary employees do not have a property right in their employment and may be terminated during the probationary employment period for failure to satisfactorily complete the probationary period, as determined by management. Terminations during the probationary employment period are not subject to the grievance provisions of this Agreement.

Employees promoted to the rank of Engineer and higher shall serve a promotional probationary period of six (6) months. The promotional probationary period may be extended by the Employer.

ARTICLE 4

UNION ACTIVITY

4.1 Upon ratification of this agreement by all parties, the City will provide the Union with two copies of the complete collective bargaining agreement in electronic format, one in Word and one in Adobe pdf. At the same time, the City will also provide the Union with one printed copy that is signed and dated. The Union will be responsible for distributing the Agreement to members of the bargaining unit.

4.2 The Union shall have the right to designate one shift steward per shift. The Union shall notify the City, in writing, of the identity of the Union's designated shift stewards.

4.3 The Union shall have the right to designate a President, Vice-President, Treasurer, Secretary, and Trustee. The Union shall notify the City, in writing, of the identity of the Union's new officers.

4.4 Time to Conduct Union Business

- (a)** The Union agrees to conduct Union business outside of normal working hours to the maximum extent possible to minimize potential disruption of the work of unit employees.
- (b)** The Union President, Vice-President, and designated shift stewards will be permitted to use a reasonable amount of official duty time, without loss of pay or benefits, for the following purposes:
 - 1.** To represent a bargaining unit employee, or act as a representative of the Union during a grievance meeting with Employer representatives, as provided for in the grievance procedure; and
 - 2.** To consult with management officials or attend meetings with management, when approved or authorized to do so by management; and
 - 3.** To be present at any questioning of a bargaining unit employee by a representative of the Employer in connection with an investigation of the employee when the employee reasonably believes that the questioning may result in disciplinary action and the employee requests Union representation.
- (c)**
 - i.** When it is necessary for a Union President, Vice-President, or designated shift steward to meet with an employee of the City of Kissimmee for any other reason not provided for in Section 4.4(b), the Union representative (and the employee, if another employee is involved) shall schedule such meetings or other tasks after work hours, except in cases of emergencies that cannot be postponed.

- ii. If the Union representative and/or employee need to take time during the regular workday to investigate a grievance, or to attend to other Union business, such time will be taken as leave without pay, which shall be subject to the approval of the Battalion Chief of the employee and the Battalion Chief of the Union representative. Approval of unpaid leave for this purpose will not be unreasonably withheld. Provided, however, that Battalion Chief(s) are not required to approve the requested leave if either employee is needed on the job due to the operational needs of the Department. In lieu of requesting leave without pay, the employee and/or the Union representative may use time pool hours in accordance with Section 4.8.

4.5 New Hire Orientation

- (a) During the initial Fire Department orientation period of a new bargaining unit employee, the City will notify the employee that his/her job is in a bargaining unit represented by the Union, will provide the employee with contact information for the Union, and will notify the employee that he/she has the right to join or not join the Union. The Employer will provide the Union with at least seven (7) days notice of the date of the initial orientation.
- (b) A Union representative will be permitted to meet with each new bargaining unit employee during his/her initial orientation period for not more than thirty (30) minutes, in order to discuss Union membership with the employee. The Union representative must schedule the time for this meeting at a time approved by management. At no time will the Union representative use abusive, degrading, or threatening language to coerce an employee to join the Union.

4.6 The Employer will make reasonable efforts to allow up to two members of the Union to rearrange their work schedules, use accrued vacation leave or compensatory time, or take time off without pay, to attend negotiating sessions mutually set to negotiate or renegotiate this Agreement.

4.7 The Union shall be permitted to place, at the Union's expense, one IAFF sticker upon a window of each piece of Kissimmee Fire Department apparatus. Before placing any sticker on Fire Department equipment, the Fire Chief shall approve the size, and content of the sticker, and the location where it is to be placed.

4.8 Union Time Pool

- (a) Employees may volunteer to donate accrued vacation time and accrued compensatory time to a Union time pool. Employees wishing to donate time to the Union time pool will be required to fill out and submit quarterly forms for that purpose that are provided by the Employer.
- (b) The maximum amount of time any employee may donate to the Union Time Pool is forty-eight (48) hours per fiscal year.

- (c) In order to equalize the costs associated with use of time by various employees at different rates of pay, the Employer will convert hours accrued in and used from the Union Time Pool into a dollar equivalent. When an employee donates time to the Union Time Pool, the Employer will convert the time to a dollar equivalent by multiplying the amount of time donated by the donor's regular hourly rate of pay at the time of the donation. That dollar equivalent will be credited to the Union's Time Pool. When time is used from the Union Time Pool, the Employer will calculate the amount to be charged to the Time Pool by multiplying the number of hours used by the regular hourly rate of the employee(s) using the time.
- (d) The Union President, or designee, is required to authorize any use of the Union Time Pool.
- (e) Employees wishing to take time away from their regular duties to use Union Pool Time must request leave in advance, following the normal procedures for vacation leave time requests.

ARTICLE 5

DUES DEDUCTION

5.1 Any member of the Union who has submitted a properly executed written dues deduction authorization to the City Manager (or his designee) may have his membership dues in the Union deducted from his pay. Dues so deducted shall be transmitted to the Union after each pay period, accompanied by a list of those employees' names whose dues are included. It shall be the responsibility of the Union to notify the City Manager, or his designee, of any change in the amount of dues to be deducted at least thirty (30) days in advance of said change. Under no circumstances shall the Employer be required to deduct Union fines, penalties, or special assessments from the pay of any member. An employee may revoke his authorization for dues deduction upon thirty (30) days written notice to the Employer and the Union.

5.2 In the event that an employee has not earned enough money in a given pay period to allow the Employer to make all deductions authorized by the employee, the Employer will make deductions in the following order:

First, required tax and social security and Medicare deductions;

Second, legally required child support payments;

Third, deductions for medical coverage, pension benefits, and other employee benefit programs,

Fourth, Union dues.

In the event that an employee's authorized dues are not deducted because of a shortage in the amount of the employee's pay, the Employer will notify the Union, and the Union will be responsible for collecting the dues that were not deducted.

5.3 The Union agrees to indemnify and hold harmless the Employer, its agents, employees, and officials from and against any claims, demands, damages, or causes of action of any nature whatsoever, asserted by any person, firm, or entity, based upon or related to payroll deduction of Union dues. The term officials as used herein, includes elected and appointed officials.

5.4 For purposes of this Article, the parties recognize that workers compensation indemnity payments are not paid through the City and the City will not be responsible for deducting or collecting Union dues from workers compensation indemnity payments paid to Union members.

ARTICLE 6

BULLETIN BOARDS

6.1 The Employer agrees to furnish wall space not to exceed twelve square feet in each work location for the Union to place a bulletin board, which shall be purchased at Union expense. The bulletin board will be consistent in style with the existing bulletin boards in the respective work locations.

6.2 The Union President, or designee, will be responsible for monitoring the bulletin board to assure that all postings are in compliance with the provisions of this article, and for removing outdated material. If the Union President delegates this responsibility, the Union will notify the Fire Chief, or his designee, of the name of the Union representative so designated.

6.3 One Union bulletin board will be used for postings related to both the “rank and file” and the “supervisory” bargaining units.

6.4 The Union bulletin board shall be used only for posting information related to Union business and activities. Examples of items which may be properly posted include but are not limited to: Union newsletters; notices of Union meetings; notices of recreational and social functions of the Union; information about Union elections, including contract ratification votes; reports of Union committees, and information about Union benefit programs.

6.5 No posting on the Union bulletin board shall contain any political advertisements or endorsements, or anything controversial, or anything reflecting adversely on the City, or any of its employees, officials, its constituents, or independent agencies, or anything which falls outside of the provisions of the City’s Code of Conduct. No materials, notices, or announcements which violate the provisions of this article shall be posted.

6.6 Only Union officers or designated shift stewards are permitted to post notices on the Union bulletin board. Before posting, the Union officer or steward must obtain authorization to post from the Fire Chief or his designee. All postings shall bear the signatures of the Union President or designee and the Fire Chief or designee as proof that the item is an authorized posting. The Fire Chief will not unreasonably withhold approval of the posting of materials. The Employer may remove any item from the bulletin board that has been posted without having first obtained the appropriate signatures.

6.7 Union officers shall be allowed to disseminate information to bargaining unit employees through the use of City email, subject to the restrictions in Sections 6.4 through 6.6.

ARTICLE 7
LABOR MANAGEMENT COMMUNICATIONS

The parties recognize that good communications foster good labor management relations. The parties agree to meet with each other, upon the request of either party, to discuss items of interest to employees or to management. Provided that nothing in this article shall be interpreted to require either party to reopen negotiations on any subject during the term of this Agreement. Unless mutually agreed otherwise, the parties agree to meet a minimum of four (4) times per year. When such meetings are scheduled at the request of the Employer, up to three (3) employees who are Union representatives will be released from work without loss of pay (or compensated at their regular rate of pay if they attend the meeting on a day off). The Employer may authorize additional employees to attend on a paid basis if the Employer determines that the attendance of those employees is needed at the meeting.

ARTICLE 8

WAGES

8.1 The hourly rate of pay for all bargaining unit members on a 24/48 hour schedule will be determined by dividing their annual salary by 2,912, which shall be considered the number of annual working hours for employees on a 24/48 hour schedule. The hourly rate for all bargaining unit members assigned to a 40 hour schedule will be determined by dividing their annual salary by 2080.

8.2 Pay rates for Fiscal Year 2022-2024 (October 1, 2022 through September 30, 2024).

(a) Step Plan Progression Increase for FY 2022 - 2023.

1. Unit members who remain employed as of the date of ratification and until October 1, 2022, of this amended Agreement shall receive a five (5) percent increase to their base pay (5% COLA), effective October 1, 2022. All unit members will not progress in the step plan this fiscal year.
2. Unit members who remain employed as of the date of ratification and until October 1, 2022 of this amended Agreement shall receive a one-time lump sum payment of \$2,500.

(b) Step Plan Progression Increase for FY 2023 - 2024.

1. Unit members who remain employed as of the date of ratification and until October 1, 2023, of this amended Agreement shall receive a ten (10%) percent increase to their base pay (10% COLA). Unit members in step 2 and above of the step plan shown in Appendix B will progress one step this fiscal year.

8.3 Step Plans. The step plan for Firefighter, Engineer, and Lieutenant for FY 2022-2023, and FY 2023 - 2024 is shown in Appendix B. Progression through the step plans will only occur as provided in this article. There will be no further progression in the step plan beyond September 30, 2024, and the step plan will be held in abeyance until such time as it is renegotiated.

8.4 If the pay increases provided in this article cause an employee's pay level to exceed the maximum of the step plan, the excess amount over the maximum shall be paid as a one-time supplemental payment, not added to or included in the employee's base rate of pay but included in the employee's overtime rate of pay.

8.5 Eligible bargaining unit employees will be paid a longevity bonus under one of the following plans:

- (a) Longevity Plan – Eligible bargaining unit employees who have been employed at the City of Kissimmee for ten (10) years or longer as of December 1 are eligible for a longevity bonus, paid in December of each year, according to the following schedule:

10 to 14 years service	\$300
15 to 19 years service	\$400
20 to 24 years service	\$500
25 or more years of service	\$600

In order to be eligible to receive this longevity bonus, an employee must receive an “effective” level (or its equivalent) or higher evaluation score and must not have received any discipline higher than a written reprimand during the 12-month period preceding December 1.

- (b) Grandfather Clause – In lieu of the longevity plan set out in Section 8.7 (a), employees who have been continually employed with the City longer than five (5) years as of December 1, 1999, will be eligible for longevity pay equal to two percent (2%) of their December 1999 annual salary upon completing 9 years of service. In order to receive this longevity bonus, the employee must receive an “effective” level (or its equivalent) or higher evaluation score and must not have received any discipline higher than a written reprimand during the 12-month period preceding December 1. The 1999 bonus level will continue unless the plan level in Section 8.7(a) would increase the employee’s bonus amount. Longer term employees receiving longevity pay based on more than 2% of their 1999 salary will continue to receive that dollar amount unless the longevity pay under Section 8.7 (a) plan is greater.

8.6 Employees who hold the following certifications, licenses, or designations and submit proof to the employer thereof by September 30th will be paid an incentive during the month of December for the calendar year past. Partial year certifications submitted by September 30th will be paid a prorated incentive based upon the number of months of certification divided by 12.

In cases of pro-rata incentive payments, the amount due will be calculated using the following:

- Certifications must be earned on or before the 15th of the month in order for an employee to be eligible for the incentive that month.
- Newly hired employees who are eligible for an incentive shall receive the incentive for the first month of employment only if the employee began work on or before the 15th of the month.
- Terminated employees who are eligible for the incentive will be paid the incentive for the last month of employment if they remain employed through the 16th of the month. Employees who leave service on the 15th of the month or sooner will not receive the incentive payment for the last month of service.

To receive these incentives, an employee must be actively providing services as a firefighter, as defined in Section 112.81(1), Florida Statutes. An employee who is injured in the line of duty and temporarily unable to provide services will be considered to be actively providing services for the purposes of this article. If an employee is actively providing services for less than an entire year, the incentive will be prorated, based on the employee's term of service.

Employees must be employed in the Fire Department on September 30 to be eligible to receive the applicable incentive(s) during the month of December.

If an eligible employee terminates his or her employment on or after October 1, the employee is eligible to receive a pro-rated portion of their applicable incentive(s) based upon the number of months that the employee both worked and held the certification. The incentive pay will be requested on the termination PAF at the time of the employee's termination. The employee's name will still be included on the incentive Pay listing sent to Finance, but a memo attached to the listing will state that the employee has already received the incentive, in order to assure that the incentive is not paid twice.

- (a) The following certifications, licenses, or designations are compensated as long as maintained by the employee.

Fire Inspector Certificate	\$500.00 per year
Fire Instructor Certificate	\$500.00 per year

- (b) The following certifications, licenses, or designations are compensated as long as maintained by the employee and the employee is actively involved with the delivery of these programs as determined by the Fire Chief or his/her designee.

CPR Instructor	\$300.00 per year
ACLS Instructor	\$500.00 per year
Paramedic Training Officer (PTO)	\$2.50 per hour
Paramedic Preceptor	\$1.25 per hour
SCBA Service Technician	\$500.00 per year
Live Fire Training Instructor (LFTI)	\$750.00 per year
Live Fire Training Instructor 2 (LFTI2)	\$1250.00 per year ¹

For the purposes of this article, a Paramedic Training Officer (PTO) is an individual selected by, and acting under the supervision of the Medical Director, to train, mentor, and supervise KFD employees who are seeking paramedic status as described in Section 8.9. Employees will be paid this per-hour rate in their regular paycheck.

The designation Paramedic Preceptor is limited to individuals who are not on probation and have been a KFD paramedic for a minimum of one (1) year and are precepting institutional paramedic students regardless of where they are in their program. Employees will be paid this per hour rate in their regular paycheck.

¹ Not to be compounded with LFTI Certification. An employee who is eligible for LFTI 2 incentive shall not receive the LFTI incentive.

For the purposes of this article, a Live Fire Training Instructor (LFTI) or (LFTI2) is an individual who holds a current State of Florida LFTI certification through the Bureau of Fire Standards and Training.

- (c) The following departmental designations are compensated as long as maintained by the employee, provided the employee holds course completion certificates at the Technician Level for the following State of Florida approved courses: Rope Rescue, Confined Space, Vehicle/Machinery Rescue, and Trench Rescue. For Hazardous Materials Technician, the employee must maintain a current State of Florida Hazardous Materials Technician certification.

Special Operations Technician who holds the class certificates as currently written and is permanently assigned to a Special Operations unit (Currently Squad 11/Rescue 11 and Tower 11/Rescue 15): \$1,000 per year

Special Operations Technician not permanently assigned to a Special Operations Unit: \$500.00 per year

Hazardous Materials Technician \$500.00 per year

Management reserves the right to change what units are designated Special Operations units and at which Fire Stations they are located.

8.7

- (a) All certified paramedics cleared to function in solo status will receive an annual paramedic incentive in the following amount, in addition to their base rate of pay as set forth in the step plan included in the appendix to this Agreement.

Beginning FY 2022-2023

Engineers & Lieutenants \$10,500

Firefighter Paramedics \$10,500

Beginning October 1, 2023, Unit Members assigned to the medic position on a Rescue will receive an additional \$1.00 an hour while in that assignment.

The incentive will be paid as “additional pay” and will be divided over twenty-six (26) pay periods per annum.

- (b) An employee will be entitled to the paramedic incentive when he/she successfully completes the skills assessment as prescribed by the Medical Director. The determination of whether an employee has successfully completed the prescribed skills assessment shall rest solely with the Medical Director and shall not be subject to the grievance or arbitration provisions of this Agreement.

- (c) If successful completion of the skills assessment is achieved on the first attempt within ninety (90) calendar days of the date of state paramedic certification (in the case of existing employees), or of the date they are assigned to shift (in the case of new hires), then the incentive will be applied retroactively back to the date of certification (for existing employees) or the date assigned to shift (for new hires). If successful completion of the skills assessment is not achieved on the first attempt, but is achieved on a later attempt, the incentive will be effective as of the date of the immediately previous attempt of the skills assessment²
- 8.8** Lieutenants assigned to Administration will receive a \$5.00 per hour incentive for all time worked in Administration.

² If the date of the skills check-off is delayed through no fault of the employee, the ninety (90) day window will be extended.

ARTICLE 9
OUT OF CLASSIFICATION

9.1 When an Engineer, Lieutenant, or Battalion Chief is unavailable, qualified personnel may ride out of grade (“ride up”) on a temporary basis to fill the vacancy. The Employer shall designate the person who will “ride up.”

9.2 Employees will be required to meet the minimum qualifications to “ride up” as defined in the SOGs.

9.3 Any employee assigned out-of-class (“ride up”) for training purposes shall be supervised by a qualified employee. The employee assigned out of class (“ride up”) for training purposes shall receive his/her normal rate of pay during the training assignment.

9.4

- (a)** Employees working above their pay grade as an Engineer will receive a \$2.00 per hour “ride up” incentive (except for persons who are in training as set out in Section 9.3).
- (b)** Employees working above their pay grade as a Lieutenant will receive a \$2.50 per hour “ride up” incentive (except for persons who are in training as set out in Section 9.3).
- (c)** Employees working above their pay grade as a Battalion Chief will receive a \$3.00 per hour “ride up” incentive (except for persons who are in training as set out in Section 9.3).

9.5 Absent an emergency situation, employees may not “ride down” in a lower rank to meet minimum staffing requirements.

ARTICLE 10
HOURS OF WORK AND OVERTIME

10.1 Scheduling.

- (a) Bargaining unit employees will be assigned by the Employer to one of the following work schedules:
- 24-hour shift -- The 24-hour shift schedule shall consist of an average 56 hour work week (averaged on an annual basis at 2,912 hours per year), with each week divided into three shifts (A, B, and C shift). The work schedule for each shift shall be 24 hours long. These shift employees will be scheduled to work for 24 hours, and then have 48 hours off. The start time for each shift is 7:30 a.m.
 - 40-hour employees – These employees will be scheduled to work a 40 hour per week schedule (2,080 hours per year). Employees may be temporarily assigned to a 40 hour per week work schedule. The Employer has the right to determine the starting and quitting time of each 40-hour employee.
- (b) The Employer shall determine the number of employees to be assigned to each of the above work schedules, and to each shift or Battalion, in compliance with Article 19 Staffing.
- (c) The Fire Chief or his designee, may reassign or transfer any employee, particularly in cases of emergency or when operational needs require that specific employees be selected. However, the Fire Chief may, at his option, first ask for volunteers. In cases where volunteers are used, if there are not enough volunteers for the change, the employer may require employees with the lowest seniority to accept the schedule/shift change. If there are more volunteers than needed, the Employer will select the volunteer(s) with the highest seniority. Subject to the provisions of this subsection, the Employer shall determine which employees are to be assigned to each shift or work schedule.
- (d) The Employer will notify the affected employee(s) at least forty-eight (48) hours in advance of any changes in the employee's regular work schedule or shift assignment, including standby duty and overtime assignments, except in cases of emergency, or when such adjustments are made to minimize overtime pay, or when operational needs do not allow time for notification.
- (e) The Employer may adjust an employee's starting or quitting time or scheduled workdays within a work period in order to avoid or minimize overtime pay where a pre-planned or scheduled change in the employee's normal working schedule could otherwise result in overtime pay. Examples where the employer is permitted to adjust work schedules under this provision include but are not limited to:

- adjustments to accommodate training schedules;
- adjustments to accommodate the transfer of employee(s) from one shift to another (e.g. A shift to B shift);
- adjustments to accommodate the transfer of employee(s) from one work schedule to another (i.e., 56-hour schedule to 40-hour schedule, or vice-versa);

However, because of the nature of the work of the Fire Department, employees are sometimes called out near the end of the shift to respond to fire alarms or calls for emergency medical services. Because of the need to provide prompt, effective, and professional service to the citizens of Kissimmee, the crew may sometimes need to stay later than the normal end of the work shift to complete work on the call. In addition, employees are sometimes required or asked to work an additional shift or work an extra duty assignment. Nothing in this subsection is intended to allow the employer to require an employee in such a situation to work fewer hours on another shift in order to avoid or minimize the payment of overtime compensation.

- (f) Except in case of emergency as decided by the Fire Chief (or his designee) or Battalion Chief, no employee shall work more than 48 consecutive hours. After 48 consecutive hours of work, the employee must receive at least 8 hours off before again reporting for work.

10.2 Overtime Pay

- (a) Employees will be paid overtime compensation as provided for by the Fair Labor Standards Act, as the same may be amended from time to time. For purposes of calculating overtime, the Employer uses a 14-day work period, with employees generally being entitled to overtime for all hours worked over 106 hours in the 14 day period.
- (b) For work performed outside of the regular work schedule to be considered as time worked for purposes of overtime pay calculations, the employee must be told or permitted to work in advance by a management official (acting Battalion Chief or higher). No employee may authorize overtime for himself/herself.
- (c) Overtime will be compensated by overtime pay calculated at a rate of one and one-half times the employee's regular rate of pay for each hour of overtime worked. Alternately, with the mutual consent of the employer and employee, the employer will award the employee compensatory time at the rate of one and one-half hours of leave for each hour of overtime worked, in lieu of overtime pay.
- (d) Employees may only accrue unused compensatory time up to a maximum of 480 hours. When an employee accrues the maximum possible compensatory leave, the employee shall be paid for all overtime hours at a rate of one and one-half times the employee's regular rate of pay. The Employer can require an employee to use accrued compensatory leave, provided the employee is given at least 48 hours

advance notice. Accrued compensatory time must be used before using accrued vacation leave.

- (e) Time spent on vacation leave and compensatory time shall be considered as hours worked for purposes of overtime calculation. Time spent on sick leave and funeral leave is not considered as hours worked for purposes of overtime calculation. For Administrative Lieutenants, time spent on vacation leave, holiday leave, and compensatory time shall be considered hours worked for purposes of overtime calculation.

10.3 Scheduling Overtime

- (a) The Employer shall use a seniority/overtime list to distribute overtime assignments, except where operational needs require that the Employer call on a certain employee or group of employees.
- (b) The Employer shall maintain a seniority/overtime list by rank for each shift. The overtime lists shall list each person in a particular rank on the shift in order of seniority, from most senior to least senior. Overtime shall be offered to the applicable employee on the off-going shift's list first. As each employee is asked, his/her name shall be placed at the bottom of the overtime list, whether he or she accepts the overtime or not. An employee's name will not be moved to the bottom of the overtime list if the employee is unable to accept the overtime assignment because of a commitment to work a previously approved time exchange, or because of any other scheduling commitment previously authorized by the Employer. If there are not enough volunteers from the off-going shift, then the employees on the other non-duty shift shall be offered overtime in the same manner. If there are still not enough volunteer personnel to work the overtime, the employer will require employees to work overtime. The Employer will go to a separate "Mandatory List" to assign the overtime. The Mandatory List will be in reverse order of the regular overtime list from the junior fire fighter to the senior lieutenant. The overtime will be assigned in order of the list. As an employee receives mandatory overtime, he/she will be marked off and the list will be picked back up at that mark for the next occurrence of mandatory overtime. Due to staffing needs it may be required to move down the list to mandatory an employee for a position that needs filled such as lieutenant, engineer, or paramedic.
- (c) The Employer has the right to require any employee to work overtime, and to schedule overtime as needed. Upon request, the Employer will make reasonable efforts to relieve an employee from the requirement to work overtime when the employee has a valid reason for not working the overtime and when there is another qualified employee who is willing to work the overtime.

10.4 Rounding for Pay Calculations

Time worked will be rounded up to the next quarter hour for payroll computation purposes.

10.5 Call Back Pay

An employee who is called back into work after he/she has been relieved from duty and has left the Fire Department work location is entitled to a minimum of two hours of pay at the applicable rate.

10.6 SERP deployment crew personnel on any deployment will be paid at a daily rate of a full 24 hours from time of activation to the time of demobilization, not just “work hours.” This agreement is based upon the parties’ understanding of relevant FEMA rules for reimbursement as of May 26, 2021. In the event of a change in FEMA or State Fire Marshal rules affecting this agreement, the parties will return to the bargaining table to address the change.

ARTICLE 11

COMPENSATORY TIME

11.1 In accordance with FLSA regulations, and with the mutual consent of the employer and employee, employees may be granted compensatory time off in lieu of overtime pay. An hour and one-half of compensatory time will be accrued for each hour of overtime worked.

11.2 The maximum amount of compensatory time that may be accrued is 480 hours.

11.3 Use of Accrued Compensatory Time

- (a)** Employees wishing to use accrued compensatory time shall make a request to their Battalion Chief at least 48 hours in advance of the time that the employee wishes to use the leave time.
- (b)** Requests for unplanned use of compensatory leave shall be made to the battalion chief before 1930 hours the evening before. Such requests shall be granted on a first-come, first-serve basis and shall be approved based on the operational needs of the shift or division for the time period requested as determined by the Fire Chief or designee.
- (c)** Accrued compensatory time must be used before using accrued vacation time.

11.4 Payout of Compensatory Time

Upon termination of employment for any reason (resignation, retirement, layoff, dismissal), employees shall be paid for all accrued compensatory time at the employee's rate of pay at the time of the separation.

ARTICLE 12

HOLIDAY LEAVE

Twenty-Four Hour Shift Employees

12.1 Bargaining unit employees who work 24-hour shifts may be scheduled to work on City recognized holidays and shall be compensated for holidays via a fire holiday leave accrual.

12.2 Holiday Accrual

Twenty-four-hour shift employees will accrue and utilize fire holiday leave as follows:

- (a)** Effective October 1, 2023, 24-hour shift employees who are employed as of January 1, will accrue 252 hours of “fire holiday leave” on January 1. The 252 hours are composed of 12 hours for each of the eleven (11) “City recognized holidays” (132 hours) and 12 hours for each of the ten “City additional holidays” (120 hours).
- (b)** Twenty-four-hour shift employees who are hired after January 1 will be credited with a quarterly prorated number of “fire holiday leave” hours, according to the following schedule:

Quarter Hired	Leave Credited
Jan-Mar	All holiday leave
Apr-Jun	2/3 holiday leave
Jul-Sept	1/3 holiday leave
Oct-Dec	No holiday leave

12.3 Use of Holiday Leave Hours

Employees may use their fire holiday leave hours under the same terms and conditions as vacation leave. However, any employee who terminates employment with less than five (5) years service with the Department, who has used more than half of his/her accrued fire leave hours in the six-month period preceding termination of employment, will be required to reimburse the City for any hours used in excess of fifty percent of his/her total accrued holiday leave hours. The reimbursement will be taken from any compensation owed to the employee at termination. If the amount of compensation owed is insufficient to reimburse the City for the amount owed, the employee will be required to reimburse the City out of pocket.

12.4 Any fire holiday leave hours that are not used by the end of the calendar year are forfeited, and the accrued but unused time cannot be liquidated for cash. Employees who separate their employment with the City shall not be compensated for any accrued but unused fire holiday leave.

12.5 Cancellation of Previously Approved Holiday Leave

- (a) An employee may cancel previously scheduled fire holiday leave by providing written notice to his or her battalion chief, at least forty-eight (48) hours prior to the commencement of such leave.³ Except in the case of the actual date of a holiday which is recognized by the City (as opposed to the date on which it is observed), fire holiday leave may be cancelled by the employee with less than forty-eight (48) hours written notice upon mutual agreement of the employee and his or her battalion chief.
- (b) The Fire Chief or his designee may, at any time, cancel an employee's previously scheduled fire holiday leave in case of an emergency or circumstances beyond the control of the Fire Department.

Forty Hour Non-Shift Employees

12.6 Holiday Leave

- (a) Bargaining unit employees who work a forty-hour non-shift schedule are not scheduled to work on the observed City recognized holidays and shall be compensated for holidays via holiday leave. When a City recognized holiday falls on a Saturday, the preceding Friday shall be designated as the official holiday for that year. When the holiday falls on a Sunday, the following Monday shall be designated as the official holiday for that year.
- (b) In addition, on January 1, forty-hour non-shift employees will accrue ten (10 eight-hour days (eighty (80) hours total) of "additional holiday". This replaces the provisions on the same subject of CP303.03 Employee Compensation, Benefits, & Leave (Holidays).
- (c) Forty-hour non-shift employees hired after the first day of January will be credited with a pro-rated amount of additional holiday according to the following schedule:

Quarter Hired	Leave Credited
Jan-Mar	All additional holiday leave
Apr-Jun	2/3 additional holiday leave
Jul-Sept	1/3 additional holiday leave
Oct-Dec	No additional holiday leave

³ Email is acceptable to expedite the required notice. However, the email must be followed up with a signed memorandum for documentation.

12.7 Employees may use their additional holiday leave hours under the same terms and conditions as vacation leave.

12.8 Any additional holiday leave hours that are not used by the end of the calendar year are forfeited, and the accrued but unused time cannot be liquidated for cash. Employees who separate their employment with the City shall not be compensated for any accrued but unused additional holiday leave.

12.9 Cancellation of Previously Approved Leave

- (a)** An employee may cancel previously scheduled additional holiday leave by providing written notice to his or her battalion chief, at least forty-eight (48) hours prior to the commencement of such leave.⁴
- (b)** The Fire Chief or his designee may, at any time, cancel an employee's previously scheduled leave in case of an emergency or circumstances beyond the control of the Fire Department.

⁴ Email is acceptable to expedite the required notice. However, the email must be followed up with a signed memorandum for documentation.

ARTICLE 13
VACATION LEAVE

13.1 Eligibility

- (a) All permanent, full-time employees will accrue vacation leave in accordance with the provisions of this article.
- (b) Probationary employees will accrue vacation leave monthly from their initial date of hire but are not authorized to use the accrued vacation leave until they have completed six months of service.

13.2 Accrual

- (a) Employees working 24-hour shifts shall accrue vacation leave based on the following schedule:

<u>Years of Continuous Service w/City</u>	<u>Annual Accrual</u>
Initial hire through 5-year anniversary	5 24-hour shifts
6th year through 10th anniversary	6 24-hour shifts
11th year through 15th anniversary	7.5 24-hour shifts
16th year through 20th anniversary	8.5 24-hour shifts
After 20 years or more	10 24-hour shifts

- (b) Employees working a forty (40) hour weekly schedule shall accrue vacation leave based on the following schedule:

<u>Years of Continuous Service w/City</u>	<u>Annual Accrual</u>
Initial hire through 5-year anniversary	6.66 hours (10 days per year)
6th year through 10th anniversary	8.0 hours (12 days per year)
11th year through 15th anniversary	10.0 hours (15 days per year)
16th year through 20th anniversary	11.33 hours (17 days per year)
After 20 years or more	13.33 hours (20 days per year)

- (c) **Maximum Accrual** – Employees may accrue up to three (3) times the employee's current annual accrual rate. However, in the event that an employee leaves City employment, he or she will only be eligible for payment for a maximum of two (2) times the employee's current annual rate (e.g., an employee with 8 years of service would only be paid for a maximum of 288 hours). Employees shall receive no other compensation in lieu of taking such vacation leave.

13.3 Selection of Vacation Dates

- (a) Between November 15 and December 15 of each calendar year, the employer will confer with the employees by seniority to review the employees' requests for

vacation dates for the period from January 1 to December 31 of the following year. Employees who advise the employer of their preferred vacation dates during that time period will have those requests reviewed and approved based upon the employee's seniority as defined in Article 18 of this Agreement, and the operational needs of the shift for the time period requested in accordance with the following procedure:

1. The Employer will prepare a "vacation calendar" for the year, or other documentation, which indicates the number of employees on each shift and/or job classification that can be on vacation at one time, based on the operational needs of the department.
2. For vacations to be taken in odd years, the Employer will confer with each employee about the employee's selection of vacation dates in order of seniority in rank. For vacations to be taken in even years, the Employer will confer with each employee about the employee's selection of vacation dates in order of seniority within the department.
3. The Employer and the employee may confer by telephone, e-mail, or any other mutually agreed method of communication. The employee will be able to review the vacation calendar to determine which dates are available for selection. After reviewing available dates, the employee will advise management of his/her selection.
4. If the dates selected by the employee are available, the Employer will note the employee's selection of those dates on the vacation calendar. This information will be available to all employees reviewing the vacation calendar, so that they know which dates remain open for selection. The Employer will then confer with the employee with the next highest seniority about selection of vacation dates and continue in like manner until all employees have selected their preferred vacation dates.
5. During the priority vacation selection period, from November 15 to December 15, employees will be limited to the greater of the amount of unused vacation the employee has accrued as of the day of selection, or one (1) year of vacation accrual at the employee's current rate of accrual. However, employees may split the use of their vacation time into two time periods, provided that no time period requested shall be less than a minimum of 24 hours (one shift) and the total request shall not exceed a maximum of 5 consecutive 24-hour shifts. The Employer will confer with employees by seniority to obtain the first choice requests for use of vacation time from each employee. Once all employees have had the opportunity to make a first choice, the Employer will confer with employees by seniority to obtain any second choice requests. Second choice requests will be reviewed and approved in the same manner as first choice requests (based on the employee's seniority in employment with the City, and the operational needs of the shift for the time period requested.) Once all employees have had the opportunity to make a

second choice, the Employer will review and approve third choice requests, and will continue in like manner until all requests have been reviewed.

(b) Requests for vacation dates that are submitted after December 15 shall be reviewed on a first come, first serve basis, and approved based on operational needs of the shift for the time period requested. In the event that two or more requests for the same time are received on the same date, the employee having higher seniority in employment with the City shall be given priority.

(c) Requests to take vacation time must be in increments of 24-hour shifts, except that when vacation time is being used to attend school the request may be for less than 24 hours, when permitted by the Battalion Chief

(d) Requests to take vacation time in the following December may continue into January as long as the time is continuous. (Example: In December 2004, an employee requests to take vacation time beginning on December 27, 2005, and continuing until January 10, 2006. This request is permissible, even though it extends past the normal vacation request period, because the request begins in December and continues into January without interruption.)

13.4 Unplanned Use of Vacation Leave

(a) Unplanned use of Vacation Leave specifically covers requests other than the selection of vacation dates pursuant to Section 13.3.

(b) Except with the approval of the Fire Chief or his designee, vacation leave shall be taken in segments of not less than twelve (12) hours.

(c) An employee requesting use of vacation leave shall complete the Payroll Exception Form, get it approved by their immediate supervisor, and submit it to their Battalion Chief at least 48-hours in advance of the leave that the employee requested.

(d) Requests for unplanned use of vacation leave shall be made to the Battalion Chief before 1930 hours the evening before. Such requests shall be granted on a first-come, first-serve basis, (with the exception of Section 13.3) and shall be approved based on the operational needs of the shift or division for the time period requested as determined by the Fire Chief or designee.

(e) The parties agree that Section 13.4 can be reopened for negotiation by either party at any time during the term of this Agreement should it be demonstrated that Section 13.4 causes undue hardship on either party. The agreement shall remain in effect as written until such negotiations are completed.

13.5 Upon separation from employment in good standing, employees who have at least six months of service with the City will be paid for vacation leave accrued and not taken at the employee's regular hourly rate of pay.

13.6 Cancellation of Previously Approved Vacation Leave

- (a)** An employee may cancel previously scheduled vacation leave by providing written notice to his or her Battalion Chief, at least forty-eight (48) hours prior to the commencement of such leave.⁵ Except in the case of the actual date of a holiday which is recognized by the City (as opposed to the date which it is observed), vacation leave may be cancelled by the employee with less than forty-eight (48) hours written notice upon mutual agreement of the employee and his or her Battalion Chief.
- (b)** The Fire Chief or his designee may, at any time, cancel an employee's previously scheduled vacation leave in case of an emergency or circumstances beyond the control of the Fire Department.

⁵ Email is acceptable to expedite the required notice. However, the email must be followed up with a signed memorandum for documentation.

ARTICLE 14

SICK LEAVE

14.1 Sick Leave Accrual

- (a) Employees shall accrue sick leave at the rate of twelve (12) hours per month.
- (b) Employees may accrue up to 720 hours of sick leave.

14.2 Employees may use sick leave under the following circumstances:

- (a) When the employee is not able to work due to the employee's personal illness, pregnancy, or non-occupational injury;
- (b) When the employee is not able to work because of the need to attend to a child or spouse who is ill;
- (c) When the employee is responsible for the care of a member of the immediate family who has a serious illness. (For the purposes of this article, immediate family is defined as the employee's spouse, mother, father, sister, brother, half-sister, half-brother, grandparent, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, stepmother, stepfather, stepson, stepdaughter, stepbrother, stepsister, legal guardian, and grandchildren.);
- (d) When the employee or his/her child has an appointment with a physician or dentist.

14.3 Authorization for Sick Leave

- (a) To be eligible for sick leave, an employee must notify the on-duty Battalion Chief no later than 2200 hours the evening before to between the hours of 0600 and 0630 the morning of their scheduled shift if they cannot report to duty due to illness. An employee will not be paid sick leave for any day that the employee fails to timely notify the on-duty Battalion Chief of his/her intended absence. An employee who reports sick prior to the beginning of a shift will be charged for a minimum of twelve (12) hours of sick leave. An employee must notify the on-duty Battalion Chief each day of absence due to use of sick leave, unless the nature of the illness or injury resulting in the use of sick leave is expected to cause the employee to be absent more than three (3) work days, in which case the expected duration of the absence will be communicated to the on-duty Battalion Chief. Employees who are absent for more than one work week shall notify the on-duty Battalion Chief of their status at least once each week.
- (b) Employees shall schedule physician, dentist, optometric, and similar medical appointments (including appointments for children) on their off-duty days. Sick leave will not be approved if the reason why the appointment or visit could not be scheduled on an off-duty day is attributable to the employee. If it becomes

necessary, through no reason attributable to the employee, to take time off for a medical appointment, the employee requesting sick leave shall be required to provide the Battalion Chief with an explanation of why the appointment or visit could not be scheduled on an off-duty day. The scheduling conflict must not be attributable to the employee for sick leave to be approved. In any event, if approved, the employee must take the sick leave in either twelve (12) hour increments from 0730 hours to 1930 hours or 1930 hours to 0730 hours, or eight (8) hour increments from 0730 hours to 1530 hours or 1530 hours to 2330 hours or 2330 hours to 0730 hours, unless otherwise approved by the Battalion Chief.

- (c) The Employer is responsible for authorizing sick leave in every instance and may verify that the reasons for use of sick leave are valid and in accordance with this article.

14.4 Medical Certificates

- (a) (a) The Employer may require a medical certificate signed by a licensed physician to substantiate a sick leave request for sick leave of any duration if the employee in question has demonstrated a pattern of absence from duty and has been advised in writing that a certificate would be required as a result.
- (b) For planning purposes, when an employee or the Employer expects the employee to be absent due to illness or injury for more than five (5) shifts, the Employer may require the employee to submit a statement from the attending physician estimating the expected duration of the illness or injury.
- (c) Certification to Return to Work -The Fire Chief may require any employee who is absent for two (2) or more consecutive shifts, or who has suffered an injury or undergone surgery, to provide a medical certificate stating that the employee is medically able to return to duty, and whether there are any work restrictions on the employee upon his/her return to work.
- (d) The employee is responsible for paying any costs associated with obtaining the medical certificates and/or statements required by this section.

14.5 Refund of vacation time will not be allowed for an illness incurred while on vacation leave. However, when an employee provides proof that he/she was admitted on an overnight basis to a hospital for a serious illness or injury that effectively ended the employee's ability to use his/her vacation time for vacation purposes, the employee will be permitted to substitute sick leave for vacation leave.

14.6 Paid sick leave is a privilege accorded to employees who are not able to perform duties for the Employer due to illness or non-work related injury. An employee on sick leave shall normally be required to stay at his/her residence or authorized location during his/her normal tour of duty, except for:

- (a) obtaining professional medical treatment; or
- (b) performing physical therapy and/or exercise prescribed in writing by his or her physician as part of his or her recovery/treatment plan., in which case a copy of the prescription must be submitted to his or her Battalion Chief prior to commencing such activity; or,
- (c) a visit to a pharmacy to fill a prescription for treatment of the condition that keeps the employee from reporting to work.

The Employer recognizes that there will be valid circumstances whereby an employee may not be able to perform duties for the Employer due to illness or non-work related injury but may nonetheless be ambulatory. In those circumstances, the employee shall inform the Battalion Chief of the particular circumstances. The Battalion Chief shall review the circumstances to determine whether the employee will be required pursuant to this provision to stay at his/her residence during the employee's normal tour of duty.

14.7 Medical Leave buy-back will be in accordance with City policy.

14.8 Under no circumstances will sick leave use be permitted for elective cosmetic surgery not specifically covered in the City of Kissimmee healthcare provider agreement. However, sick leave may be used for elective eye surgery.

ARTICLE 15
PENSION PLAN

15.1 Bargaining unit employees will continue to participate in the existing Fire Department Pension Plan.

15.2 The Parties agree to modify the existing Fire Department Pension Plan by adopting the Stop-Restart study (Foster and Foster) dated 12/3/12, which will result in the following pension benefit changes for all employees:

- (a) Increase vesting from 5 years partial to 10-year cliff vesting (all or nothing).
- (b) Increase early retirement reduction to a true and actuarial reduction for future early retirees.
- (c) Increase the number of years for the average final compensation period from the last three (3) years to best five (5) years out of the last ten (10) years.
- (d) One half of the excess state money reserves (\$478,123 as of 9/30/12) will be utilized by the City to offset costs.⁶
- (e) An ad hoc COLA will be granted as set forth in the Ad Hoc COLA Analysis dated 12/3/12.

15.3 In addition to the benefit changes for all employees in Section 15.2, the following benefit changes will affect only those employees hired on or after January 1, 2013.

- (a) Decrease the benefit multiplier from 3.23% to 3.00%.
- (b) Increase the member contribution rate from 1% to 3%.
- (c) Eligible for retirement upon the earlier attainment of 55 years of age with 10 years of service, 52 years of age with 25 years of service, or any age with 30 years of service.
- (d) Increase the early retirement date from 40 years of age with 10 years of service, to 50 years of age with 10 years of service.
- (e) Require the member to reach 55 years of age with 10 credited years of service, or 27 years of credited service regardless of age, to be eligible for credit for prior military service.

⁶ The numbers in Section 15.2(d) could potentially change based upon the final actuarial study conducted prior to submitting plan modifications to the Division for approval.

15.4 Upon ratification of this Agreement, a proposed City ordinance modifying the Fire Department Pension Plan will be drafted and submitted to the Division of Retirement of the Florida Department of Management Services (“Division”), for review.

15.5 In the event that the Division rejects any part of the proposed pension modifications, this article will be deemed null and void, and the parties agree to return to the bargaining table to continue pension negotiations.

15.6 For the purposes of retirement calculations, the normal work assignment for employees on 24/48 hour schedules is 2912 hours annually. Effective upon ratification of the collective bargaining agreement, the definition of “salary” in the Firefighters’ Retirement Plan shall be revised to exclude payments for overtime worked in addition to the normal work assignment in excess of 300 hours per calendar year.

ARTICLE 16
TUITION REIMBURSEMENT

16.1 The City may, within available funds and budgetary restraints, reimburse up to one hundred per cent (100%) of the tuition costs incurred by an employee taking approved courses of instruction in pursuit of an approved degree or diploma at an approved institution of higher learning. Approval will be determined by the City Manager, Fire Chief, and Human Resources & Risk Management Director. Nationally and regionally accredited institutions may be authorized for use under this article.

16.2 The following items outline requirements and/or stipulations placed on the reimbursement of an employee's tuition expenses:

- (a) The employee must be a full-time, regular employee throughout the duration of the coursework.
- (b) Educational training can include Associate, Bachelor, or at the City Manager's discretion, Master's degree coursework.
- (c) Tuition reimbursement for each class within the educational program will be restricted, based on its relationship to the job held by the employee and its degree of value to the City, as determined by the Employer.
- (d) Notice to Employer:

1. For budget planning purposes, any employee interested in obtaining tuition reimbursement must turn in a preliminary notice of intent to request tuition reimbursement to the Fire Chief by April 1 for the following fiscal year (October 1 to September 30). This preliminary request does not need to identify the specific course the employee plans to take. Employees turning in this preliminary request form are not obligated to attend class.

2. At least 30 days before the date the employee intends to enroll in a class, employees seeking tuition reimbursement must apply using forms developed by the Employer. Employees must submit a separate form for each class taken. Requests for tuition reimbursement for master's degree courses must be accompanied by a memorandum to the City Manager justifying the applicability of the coursework to the employee's current position with the City.

(e) Subject to the percentage limits set out in Section 16.2(f), tuition reimbursement will be made at the rate of tuition per credit hour at the University of Central Florida or Valencia College, whichever is applicable. If a course of study is not available at a state institution, tuition assistance may be authorized for a course taken at a private college. However, the rate of reimbursement will still be the rate of tuition per credit hour at the University of Central Florida or Valencia College, whichever is applicable. The maximum amount of tuition reimbursement available under this article is \$1,300 per fiscal year.

- (f) The employee must receive a satisfactory passing grade (Pass in a pass-fail system, or a grade of “C” or above in a graded system) in order to receive any tuition reimbursement. Subject to the limits set out in Section 16.2(e), the following percentage of tuition will be reimbursed upon receipt of proof of grade and tuition payment:

Grade of A (or pass)	100% of amount allowed for in Section 16.2(e)
Grade of B	100% of amount allowed for in Section 16.2(e)
Grade of C	75% of amount allowed for in Section 16.2(e)

- (g) Payment of the tuition reimbursement amount will be made when the employee provides proof of payment of the tuition and copies of his/her grade for the course to the Human Resources & Risk Management Department.

- (h) There will be no reimbursement for textbooks, supplies, incidental fees, or late fees.

16.3 Any employee using the tuition reimbursement program will reimburse the City for tuition expenses in the event that the employee does not remain employed with the City for a designated period after course completion.

- (a) The applicable time periods are:

1. Employees taking classes to meet the requirements for an associate degree shall be required to reimburse the City for tuition expenses paid by the City if the employee does not remain employed for at least two years following the date that the course ended.

2. Employees taking classes to meet the requirements for a bachelor’s degree or master’s degree shall be required to reimburse the City for tuition expenses paid by the City if the employee does not remain employed for at least four years following the date that the course ended.

- (b) In the event that an employee must return funds to the City under this provision, the amount that the employee is required to return will be calculated on a pro-rata basis as follows:

1. The employee will be required to pay 50% of the amount for each year of service not completed for those classes where the employee is expected to stay at the City for at least two years;

2. The employee will be required to pay 25% of the amount for each year of service not completed for those classes where the employee is expected to stay at the City for at least four years.

16.4 Employees are required to use off-duty time to attend any course of instruction that is not required by the City.

ARTICLE 17
SAFETY, HEALTH, and JOB RELATED INJURIES

17.1 Safety Equipment

The City will continue to provide proper and necessary safety equipment and devices for employees engaged in hazardous work. When such equipment and devices are provided, they must be used. Failure by employees to utilize provided equipment may result in disciplinary action and loss of workers' compensation benefits.

17.2 Employee Safety Awards

The City may institute employee safety award programs. Safety awards may be made either to groups or to individuals and will normally be made in recognition of praiseworthy or outstanding safety performance.

17.3 Accident Reporting

- (a) All employees are responsible for immediately reporting to their supervisor all injuries or accidents that occur on the job. An accident report must be completed and turned in to the Human Resources & Risk Management Department before close of the next business day. If the incident occurs over a holiday or weekend, the accident report should be submitted no later than twelve noon on the next business day.
- (b) Reporting is required for any property damage, vehicular accident, and/or employee injuries that require first aid treatment or more. In addition, all vehicular accidents, serious injuries, or fatalities require immediate notification of the appropriate law enforcement agency, the Risk Manager, and the employee's supervisor.

17.4 Worker's Compensation

- (a) In the event of a work-related injury or illness, the employee must fill out an accident report form, have it signed by his/her supervisor, and bring it to the Human Resources & Risk Management Department. Arrangements for medical care will be made through the Human Resources & Risk Management Department. The employee will be given a physician's report form to take to the physician, requesting current information on the diagnosis and restrictions surrounding the injury or illness. In emergency situations, an injured employee will be taken to the emergency room and the supervisor must handle the associated paperwork. Any ongoing treatment or physician reevaluation must be scheduled through the Human Resources & Risk Management Department.
- (b) When an employee is allowed to return to work subject to restrictions on his/her movement, lifting abilities, or similar physical limitations, it is presumed that the restrictions apply to the employee's activities both on and off duty. Employees are

expected and required to comply with the restrictions imposed by the physician whether they are on or off duty, unless the physician has expressly stated that the restrictions apply only on duty.

- (c) In the event that an employee will be out for an extended period of time, the Department may need to fill the vacancy. Such requests must be submitted to the Human Resources & Risk Management Director for review. When reasonably practicable, the Employer will meet with the employee to review the situation before making a final decision to fill the employee's position. Determination will be made based on the recuperation status of the injured employee and the need to replace. Vacancies of less than thirty (30) days will not be considered for replacement, except under extreme coverage difficulties.
- (d) When an employee's position is filled, he/she will be considered for the next available Department position, in that classification. In addition, the employee will be considered for other vacancies for which he/she may be qualified.
- (e) In accordance with Florida state workers' compensation regulations, if an injured employee is off work longer than seven (7) days, he/she will be paid 66-2/3% of their average weekly wage. The average weekly wage is based on the previous thirteen (13) weeks' salary, including overtime, standby, and incentive pay.
- (f) An employee may decide to use sick and/or vacation leave for any portion of the lost time not covered under workers' compensation. This must be coordinated through the Human Resources & Risk Management Department.
- (g) Any employee who is not receiving a payroll check is responsible for all deductions for dependent medical and dental care, supplemental life and/or accident insurance, employee retirement contributions, and credit union payments. The Human Resources & Risk Management Department will assist in coordination of these payments.

17.5 Light Duty

- (a) In the discretion of the City Manager, light duty assignments may be provided to employees who are physically unable to perform their normal duties. However, the City is under no obligation to create a light duty assignment if no such assignment is currently available.
- (b) Hours of Work. Employees who are placed in a light duty assignment will normally be assigned to a forty (40) hour work week.
- (c) Off Duty Injuries. Employees who are injured off the job (not a worker's compensation injury) will be compensated only for hours worked, up to forty (40) hours, when placed in a light duty assignment. Such employees may use sick leave, vacation leave, or fire holiday leave to make up their normally scheduled hours.

However, those employees must exhaust any sick leave accumulated before using vacation leave or fire holiday leave.

17.6 The parties agree to comply with all applicable requirements of Section 633.810, Florida Statutes, relating to the establishment and implementation of a workplace safety committee.

17.7 Personal equipment that is specifically assigned to an individual employee shall not be loaned out to a person other than the person to whom the equipment is assigned, except with the permission of the Employer and the person to whom the equipment is assigned.

ARTICLE 18

SENIORITY

18.1 Seniority of a bargaining unit employee will be determined by the employee's date of continuous, full time, permanent employment in a rank covered by the rank and file or supervisory bargaining unit in the Department.

- (a) Seniority of personnel within ranks/positions will be determined by the date the employee was promoted or certified to the title he/she holds. In the event two or more employees have the same promotion/certification date, seniority shall first be established in accordance with examination ranking (position on the list). If this process results in two or more personnel having identical seniority, then the drawing of lots will be utilized to determine seniority.

18.2 Seniority and the employment relationship shall terminate when:

- (a) The employee resigns or is discharged;
- (b) The employee is absent without approved leave for two consecutive work shifts (in the case of a shift worker), or three (3) eight-hour days (in the case of a forty (40) hour per week employee);
- (c) The employee fails to return to work at the end of an approved leave of absence (including but not limited to vacation leave, sick leave, FMLA leave, or any other approved paid or unpaid leave.)

18.3 Lay-off and Work Force Adjustment

- (a) Whenever it becomes necessary to lay off an employee or group of employees due to lack of work, employees will be laid off in inverse order of their seniority within the rank affected by the layoff, unless management determines that laying off in that order will adversely affect the operational needs of the Department.
- (b) Employees affected by a lay-off will have the right, in accordance with their seniority, to transfer or downgrade (commonly known as "bumping") or to take the lay-off.

1. Affected employees shall have five (5) calendar days, from the date they receive notification from management of their lay-off, to notify management whether they desire to bump or take the lay-off. In the event that the Employer notifies the employee of the layoff by mail, the notification will be sent via U.S. Mail with return receipt requested to the employee's address on file at the City's personnel department. If the employee does not receive notice because he/she does not have their current address on file at the personnel department, or because he/she fails to accept delivery of the letter, the employer will treat the letter as delivered on the fifth day after it was mailed. The employee's time to exercise his bumping rights will run from that date.

2. If the employee chooses to bump, the employee shall within the said five (5) calendar days, identify the job position which is the subject of the bump. If the employee possesses the qualifications for that position and has greater seniority within the Department (as defined in Section 18.1 above) than the present occupant of that position, and the bump will not adversely affect the operational needs of the Department, the bump shall take effect within five (5) calendar days from the notification.

3. An employee bumping to a different job classification ("job 2") shall be placed on a trial period of not less than ninety (90) days. If, in the opinion of the Employer, the employee cannot satisfactorily perform the duties of the position to which the employee has bumped, the employee will be laid off, with no further bumping rights. In that event, the employee who was bumped by the employee who did not satisfactorily perform in the "job 2" position will be offered the opportunity to return to that job (subject to the bumping rights of any other employee who has more seniority.)

4. An employee bumping to a job classification which is lower than the employee's present job classification will be paid at his present pay rate or the maximum rate of the lower classification, whichever is lower.

- (c) Recall of laid-off employees will be made by seniority.
- (d) In order to be eligible for recall, the employee must have maintained his or her certifications, and must keep the Employer advised of his or her current address. Employees shall be recalled by written notification by certified mail, return receipt requested to their last known address. Recalled employees shall notify the Employer if their desire to return to work within five (5) days of receipt of the recall notice and must return to work within twenty-one (21) days from receipt of the recall notice.
- (e) The Employer is only required to recall an employee to the last classification that he/she previously held in a permanent capacity. If an employee refuses a job with the Employer in any classification in which he/she was previously employed, the employee shall lose all further recall rights.
- (f) An employee will be kept on the callback list for one (1) year from the date of the employee's layoff. After this period, the Employer will no longer be obligated to recall the employee.
- (g) When an employee is laid off, the employee's seniority shall be frozen during the period of time that the employee retains recall rights. If the employee is recalled, the employee retains the seniority he/she had prior to the layoff.
- (h) New hire probationary employees have no right to recall under this provision.

18.4 An employee's seniority shall only entitle the employee to the rights expressly provided for in this Agreement.

ARTICLE 19
STAFFING

19.1 The Employer agrees that it will adequately staff all equipment with due regard for the needs of the community, the safety of bargaining unit employees, the requirements of the apparatus, and similar relevant factors. The Union has the right to provide written input to the Employer about staffing needs.

19.2 The station Lieutenant (or acting station Lieutenant) shall be responsible for vehicle assignments within his or her own crew. Management reserves the right to modify such assignments as necessary, provided crew safety is not compromised.

ARTICLE 20

TIME EXCHANGE

20.1 For purposes of this article, a “time exchange” is defined as a voluntary agreement between two employees to “trade” or “exchange” the time that they are normally scheduled to work. The parties acknowledge that time exchanges are done voluntarily by the employees involved in the exchange.

20.2 Subject to the requirements of this article, employees may voluntarily exchange times provided that:

- (a) The time exchange does not interfere with the regular operations of the Department.
- (b) It is requested and approved by their immediate supervisor or the on-duty supervisor at their assigned duty station not less than 12 hours in advance. Upon approval the immediate supervisor shall notify the on-duty Battalion Chief.
- (c) The time exchange does not result in any additional cost or expense to the Employer.
- (d) The employee filling in during the time exchange must be fully qualified to perform all of the regular duties of the person requesting the time exchange.

20.3 An employee who wishes to exchange a scheduled time is solely responsible for locating a willing and qualified person with whom to make the exchange, and for timely submitting all documentation necessary to obtain authorization for the exchange.

20.4 Any employee wishing to exchange scheduled time must submit a completed “Notice for Time Exchange” to their immediate supervisor and forward such request to the Battalion Chief not less than 12 hours in advance of the proposed time exchange. The Battalion Chief, in his/her sole discretion, may accept a Notice submitted with less than 12 hours advance notice of the proposed time exchange. The Notice shall include the name of the employee who will be filling in during the time exchange. The employee filling in during the time exchange must be fully qualified to perform all the duties of the person requesting the time exchange. The Battalion Chief will promptly review the “Notice for Time Exchange” and advise the employees involved whether the exchange has been approved. If the person filling in is qualified to work the time exchange, the Battalion Chief will not deny the request for a time exchange except in an emergency, or in some other case for an extraordinary cause.

20.5 When an employee of lower rank fills in for another employee, the employee who is filling in will not receive “ride-up” pay, and the employee who requested the exchange will not be allowed to function below their rank to repay the time exchange.

20.6 In the event that an employee who is supposed to fill in during a time exchange is unable to do so, that employee is responsible for notifying the normally scheduled employee’s supervisor of the situation. The employee who is supposed to fill in will also be required to contact

the employee who was scheduled to work to notify that employee of the situation. The employee who was originally scheduled to work shall then report for work as scheduled, if that employee is available.

20.7 In cases where the employee who was scheduled to work cannot be located or is otherwise unable to work, the employee who agreed to the time exchange shall make every effort to locate another qualified employee to fulfill the time exchange. If those employees are not successful in locating another qualified employee to work the time, then the Employer will call in a qualified employee. In that case, the employee who initiated the time exchange shall be charged for the use of vacation time, or compensatory time, or fire holiday time, for the time that the initiating employee had been scheduled to work. The employee who was supposed to fill in, but failed to do so, will not be permitted to do a time exchange for six (6) months from the date that he/she failed to report for the time exchange. In the event that the employee who was supposed to fill in failed to do so because of an unforeseen emergency as determined by the Employer, then that employee will not be prohibited from doing time exchanges as a result of the failure to report.

20.8 Any time exchange of 30-minutes or less, which wholly occurs between the hours of 0700 and 0800 hours shall only require the verbal approval of the station officer and will not be subject to the requirements of Section 20.2 (b) or Section 20.4.

ARTICLE 21
UNIFORMS, EQUIPMENT and PERSONAL APPEARANCE

21.1 All trousers, shirts (work and dress), jacket, caps, gym shorts, sweat pants, sweat shirts, insignia, and all other uniform items which employees are required to wear in performance of their work shall be furnished by the City to employees without cost. It shall be the obligation of the employees to maintain all items in good and presentable condition, and to notify the City in advance of a need for replacement of any item. If any changes are made to the required style or appearance of uniforms by the City, the City will bear the cost of having uniform items altered or replaced to conform to the required changes. The City will continue to follow existing procedures related to replacement of worn or damaged uniforms and equipment.

21.2 The City will provide facilities for the washing of contaminated protective gear and uniform items.

21.3 The City and bargaining unit employees will follow the Department's Biohazardous Waste Disposal Procedure, which may be amended from time to time to comply with applicable state and federal law.

21.4 The City will repair or replace an employee's prescription eyewear or wristwatch that is damaged or destroyed while in the performance of an employee's duty, subject to the following requirements:

- (a) The maximum amount payable under this provision is \$200 for prescription eyewear and \$100 for a wristwatch.
- (b) The employee must make a written claim for the repair or replacement cost within 7 calendar days of the date that the item was damaged or destroyed.
- (c) The written claim will be submitted to the Battalion Chief. The claim shall describe the item damaged or destroyed, explain how the item was damaged or destroyed, and include a receipt for its replacement or repair. The Employer may require the employee to submit the damaged item for inspection before paying the claim.
- (d) The City will not repair or replace any item that was damaged or destroyed due to the negligence of the employee.

21.5 City furnished protective clothing, safety devices, and/or equipment shall remain on the premises at all times except when in use, or to "float" to another station, or for some other reason authorized by the employee's Battalion Chief.

21.6 Bargaining unit employees are free to wear or not wear an IAFF pin on their uniform, subject to the provisions of this subsection. The cost of the IAFF pin will be paid by the employee. The IAFF pin shall be no larger than a nickel. The Fire Chief will designate the area of the uniform where IAFF pins may be worn.

ARTICLE 22
VACANCIES and TRANSFERS

22.1 Definitions. – The following definitions apply for the purposes of this article:

- (a)** “Vacancy” – means a newly created position resulting from the opening of a new Fire Department station, or the placement of a newly created and staffed apparatus/resource (equipment or individual) into operation.
- (b)** “Qualifications” – the employee’s ability to efficiently and effectively assume the responsibilities and duties of a given position, as determined by management.
- (c)** “Transfer”- means a regular opening in any existing unit position, e.g., as a result of a retirement, promotion, etc. A transfer can mean movement from shift to shift. It can also mean a reassignment from one unit to another unit on the employee’s original shift. A transfer shall be determined by management.

22.2 The Employer shall determine whether to fill any vacancy, in compliance with Article 19 Staffing.

22.3 Whenever the Fire Chief or designee determines to fill a vacancy the Fire Department will provide notice of the vacancy by posting notices through e-mail or other formal official Department communication. The notice will announce the vacancy and advise employees how to request assignment to the position and the deadline for submission for the vacancy. At the end of the application period, the Employer will review and process the applications for the vacancy as follows:

- (a)** Vacancies shall be filled based on qualifications of the applicants, as established in prior writing by the Employer.
- (b)** Where two or more applicants have the same qualifications, the opening will be filled by the senior most qualified applicant.

22.4 When no employees apply for a posted vacancy, the Fire Chief or designee shall administratively select the least senior qualified employee, as determined by management, to fill the vacancy.

22.5 Subject to the requirements listed in this article, nothing in this Agreement shall be construed to limit the right of the Employer to transfer an employee, or to deny an employee’s request to transfer.

ARTICLE 23

MISCELLANEOUS

23.1 Mileage

Employees who are authorized by the Fire Chief or designee to use their own vehicles in the performance of their official employment duties will be reimbursed for mileage at the rate set by the City Commission for all City employees. For the purpose of this section, “official employment duties” shall not include station to station transfers that have been approved by the Fire Chief or designee. Employees seeking mileage reimbursement are required to submit their requests for reimbursement on a monthly basis on forms provided by the Employer. A failure to timely submit a reimbursement request may result in denial of payment.

23.2 Notice of Legal Action

Employees will promptly deliver to the Employer all legal papers or notices of intent to bring suit served upon or otherwise delivered to them related to lawsuits brought against the employee for actions of the employee while on duty.

23.3 Employer Defense of the Employee

The Employer will defend an employee in any civil action arising from a complaint for damages or injury suffered as a result of any alleged act or omission of action of the employee, provided such alleged act or omission arises out of and is in the scope of his/her employment and function. The Employer is not obligated to defend an employee who has acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. If the Employer elects not to represent an employee, it shall notify the employee of such decision in writing as soon as practicable after the decision to grant or deny coverage is made.

23.4 Weingarten Right

In all cases where an employee is to be interviewed or required to respond to a written inquiry concerning an alleged violation of Department or City rules or regulations, which, if proven, may result in loss of pay or position or in some other disciplinary measure, including an oral or written reprimand, he/she shall be afforded a reasonable opportunity and facilities to contact and consult privately with a representative of the Association (who may be an attorney) before being interviewed. The Association representative may be present during the questioning. Where the Association representative is not immediately available and conditions permit, the interview will be postponed for a reasonable period of time, provided that no interview need be postponed for more than four (4) hours because of unavailability of an Association representative. However, should the Employer determine to proceed with the interview, the employee shall be permitted to select a fellow employee to witness and/or advise him/her during the interview.

ARTICLE 24

GRIEVANCE AND ARBITRATION PROCEDURE

24.1 In a mutual effort to promote harmonious working relations between the parties to the Agreement, it is agreed to and understood by both parties that there shall be a procedure for the resolution of grievances or misunderstandings between the parties arising from the application and interpretation of this Agreement.

24.2 A grievance shall be defined as a dispute concerning the interpretation or application of the specific terms of this Agreement. A grievance shall also be defined as a dispute concerning the interpretation or application of the Fire Department's Policy and Procedure on promotion to Engineer and Lieutenant.

24.3 Where a grievance is general in nature, in that it applies to a number of employees having the same issue to be decided, it shall be presented directly at Step 3 of the Grievance Procedure within the same time limits provided for the submission of a grievance in Step 1, and shall be signed by the aggrieved employees and/or by the Union representative on the employees' behalf.

24.4 The Union has the right to initiate grievances based upon the Employer's upper management decisions which have general applicability to bargaining unit members, where such decisions give rise to disputes about the interpretation or application of the specific terms of this Agreement. Union grievances filed pursuant to this subsection shall be initiated at Step 3 of the grievance procedure within the same time limits provided for submission of a grievance in Step 1.

24.5 All grievances must be processed within the time limits provided in the grievance procedure unless extended by mutual agreement of the parties in writing. Any grievance not presented by the grievant within the applicable time limits shall be deemed abandoned. Any grievance not answered by management within the time limits provided in the grievance procedure shall be determined to be denied and shall be advanced to the next available step of the grievance procedure, unless an extension of time for an answer is mutually agreed to in writing.

24.6 Grievances shall be processed in accordance with the following procedures:

Step 1. The aggrieved employee shall reduce to writing on the standard form provided for this purpose (Appendix C) and present such written grievance to his/her Battalion Chief within seven (7) calendar days of the occurrence which gave rise to the grievance, or within seven (7) calendar days of the date that the grievant knew or should have known of the facts giving rise to the grievance. The Battalion Chief shall meet with the employee and the Union representative, if the employee wishes his assistance, within seven (7) calendar days of the date the grievance is presented. The Battalion Chief shall attempt to adjust the matter and/or respond to the employee in writing within seven (7) calendar days from the date of the meeting.

Step 2. If the grievance has not been satisfactorily resolved, the aggrieved employee and the Union representative, if the employee wishes his assistance, shall

reduce to writing on the standard form provided for this purpose (Appendix C) and present such written grievance to the Deputy Chief (or designee) within seven (7) calendar days from the date of the Battalion Chief's response at Step 1 (or the time the Battalion Chief's response was due in Step 1, if the Battalion Chief has not responded to the grievance). The Deputy Chief (or designee) shall meet with the employee and the Union representative, if they wish him present, within seven (7) calendar days. The Deputy Chief (or designee) shall respond in writing within seven (7) calendar days from the date of the meeting.

Step 3. If the grievance has not been satisfactorily resolved, the aggrieved employee and the Union representative, if the employee wishes his assistance, shall reduce to writing on the standard form provided for this purpose (Appendix C) and present such written grievance to the Fire Chief or his designee within seven (7) calendar days from the date of the supervisor's Step 2 response (or the time the supervisor's response was due in Step 2 if the supervisor has not responded to the grievance). The Fire Chief or his designee shall meet with the employee and the Union representative, if the employee wishes him present, within seven (7) calendar days. The Fire Chief or his designee shall respond in writing within seven (7) calendar days from the date of the meeting.

Step 4. If the grievance has not been satisfactorily resolved in Step 3, the employee may present the grievance to the City Manager, within ten (10) calendar days from the date of the response at Step 3 (or from the time the response was due in Step 3 if no response is provided). The City Manager shall meet with the employee and the Union representative within ten (10) calendar days. The City Manager shall respond in writing within fifteen (15) calendar days from the date of the meeting.

Step 5. If a grievance, as defined in this article, has not been satisfactorily resolved within the grievance procedure the Union may request arbitration in writing to the office of the City Manager no later than thirty (30) calendar days after the date of the City Manager's response (or from the date that the City Manager's response is due in Step 4 if no response is provided). The parties to this Agreement will mutually agree, or attempt to agree, on an independent arbitrator. If this cannot be done, one will be selected, by striking, from a list mutually requested from the Federal Mediation and Conciliation Service.

24.7 The arbitration shall be conducted under the rules of the American Arbitration Association except to the extent modified in this Agreement. Subject to the following, the arbitrator shall have the jurisdiction and authority to decide a grievance as defined in the article:

- (a) The arbitrator's decision shall be final and binding, but the arbitrator shall have no power to alter, modify, amend, add to or detract from the terms of the Agreement. The decision shall be within the scope and terms of the Agreement and shall be made in writing and shall be final and binding on all parties.

- (b)** The arbitrator shall confine his decision to the particular issue as specified in the written statement of the grievance as presented in Step 1 of the grievance procedure.
- (c)** Copies of the award of the arbitrator, made in accordance with the jurisdictional authority conferred under this Agreement, shall be furnished to both parties within thirty (30) days of the hearing, unless the parties mutually agree to extend the time limit, and shall be final and binding upon both parties.
- (d)** Each party shall bear the expense of its own witnesses and its own representatives. The parties shall bear equally the expense of the impartial arbitrator. Any party requesting a copy of the transcript of the arbitration hearing shall bear its cost, unless otherwise agreed.

ARTICLE 25
SEVERABILITY

In the event that any article, section, or other provision of this Agreement should be found invalid, unlawful, or unenforceable by reason of any existing or subsequently enacted legislation or judicial decision, all other provisions of this Agreement shall remain in full force and effect for the duration of the Agreement. The article, section, or provision found invalid, unlawful, or unenforceable shall be subject to renegotiation at the request of either party to this Agreement.

ARTICLE 26

FUNERAL LEAVE

26.1 In the event of the death of an immediate family member, an employee may take up to two (2) shifts of funeral leave (in the case of a shift worker), or three (3) eight-hour days (in the case of a forty (40) hour employee) to attend to the funeral and arrangements. If the employee must be off longer to attend a funeral out of state, the employee may be allowed to use up to three (3) shifts of funeral leave (in the case of a shift worker), or five (5) eight-hour days (in the case of a forty (40) hour employee). In the event an employee requires additional time off, the Fire Chief may authorize the use of sick or vacation leave.

26.2 For the purposes of this article, immediate family members shall be limited to the employee's spouse, child (including stepchild), mother (including stepmother), father (including stepfather), brother (including stepbrother or half-brother), sister (including stepsister or half-sister), grandmother, grandfather, mother-in-law, father-in-law, any family member living in the employee's household, or any individual for whom the employee serves as the legal guardian.

26.3 An employee on a scheduled vacation who suffers the loss of an immediate family member may elect to take funeral leave instead of vacation time.

26.4 In all instances of requested funeral leave, the employee may be required to provide the Chief, or his designee, with proof of death, as well as proof of the relationship to the family member, prior to leave being granted.

26.5 In the event an employee does not have sufficient leave to accommodate his or her necessary funeral leave, the City will advance the employee the necessary sick leave. However, any such employee advanced leave for funeral purposes shall forgo all sick leave accrual until such time as the advanced leave has been recouped by the City.

26.6 In the event an employee who has been advanced sick leave for funeral purposes leaves City employment prior to the City recouping all leave advanced, the employee shall be responsible for reimbursing the City the cash value for all advanced leave not recouped.

ARTICLE 27
ANNUAL PHYSICALS

27.1 All employees with more than one (1) year of service shall be required to complete a medical examination on a calendar year basis.

- (a)** Medical examinations and tests may be performed at the City's Clinic while the employee is on duty, or employees may elect to utilize their own physician off-duty.
- (b)** The City's Motivate Me program runs between November 1st and October 31st each year.

ARTICLE 28
SPECIAL EVENTS/STANDBY DETAIL/PUBLIC EDUCATION

28.1 The City of Kissimmee Fire Department (Department) is responsible for providing emergency vehicles, firefighters, EMTs, paramedics, and supervisors to support special events, standby, or public education. Once the Department receives a request, the Fire Chief or their designee will decide if the request will be filled by on-duty or off-duty personnel and the number needed for the request. The process in this article does not apply to circumstances where the Fire Chief or their designee chooses to use on-duty units to support a special event, standby, or public education request.

28.2 An Administration Lieutenant or the Fire Chief's designee will maintain the special events, standby requests, or public education eligibility list (events eligibility list). When the Department requests staffing for special events, standby requests, or public education, an email will be sent to an Administration Lieutenant requesting the number of members needed, date, time, and event. An Administration Lieutenant will email the eligible members for the assignments with the number of members required, date, time, and event. The email will also contain the deadline for signing up. If more members sign up than are needed, then the events eligibility list will be used to decide who will be qualified to work the event. The award of the off-duty assignment will be based on seniority and current accumulated hours. For example, those with no hours will have precedence over those with hours based on seniority. Note: a half hour before and after the event will be added for logistical purposes.

- (a)** If a Lieutenant (supervisor) is needed for special events, standby, or public education, the compensation shall be \$50.00 per/hour. If their overtime rate exceeds \$50.00 an hour, the overtime rate shall be used for compensation. Administration Lieutenants will have the right of first refusal for supervisory positions. Administration Lieutenants will not be part of the events eligibility list. The Fire Chief may designate a Chief Officer in place of a Lieutenant for a supervisory position. Qualified Ride-Up Lieutenants may be used for the event if no Lieutenant or Acting Lieutenants are available.
- (b)** If an Engineer or Firefighter is needed for special events, standby, or public education. The compensation shall be \$40.00 per/hour. If their overtime rate exceeds \$40.00 an hour, their overtime rate shall be used for compensation. For special events, standby, or public education, an Engineer and Firefighter are considered equal unless the event needs a vehicle that mandates an Engineer. Administration Lieutenants will have the right of first refusal for these positions.

28.3 One EMT and one Paramedic shall fill all EMS requests. Two paramedics may be assigned if no EMTs sign up. All special events, standby, or public education details will pay a minimum of 4 hours. If the need is canceled 24 hours before the scheduled detail, the department shall pay the minimum of 4 hours, and the members will receive the pay and credit for three hours worked.

28.4 This article shall expire at midnight on **September 30, 2024**. Both management and labor must agree to renew this Article in subsequent contract years.

ARTICLE 29
DURATION OF AGREEMENT

29.1 Duration: Except as otherwise provided herein, the provisions of this agreement shall be effective beginning on the date of ratification and shall thereafter continue in full force and effect until midnight on the 30th day of September, 2024. The Rank and File Unit and the Supervisory Unit shall each ratify separately, and the Agreement will be effective as to each unit on the respective date of the unit's ratification.

29.2 Status Quo: If a successor agreement has not been reached before the expiration of this Agreement, the wages, hours, and other terms and conditions of employment set out in this Agreement will remain in effect until new terms and conditions have been established pursuant to law.

29.3 Notice: Any notice to be given shall be given by certified mail, email, or hand delivery.

(a) Any Union notice sent to the City shall be addressed to:

Director of Human Resources & Risk Management (Roxane Walton)
City of Kissimmee
101 Church Street
Kissimmee, FL 34741-5054
E-mail: rwalton@kissimmee.org

(b) Any City notice sent to the Union shall be addressed to:

Kissimmee Professional Fire Fighters, IAFF Local 4208
3117 Innovation Drive
St. Cloud, FL 34769

Or

To the current Union President

29.4 During the negotiations, which led up to the execution of this Agreement, each party had an unlimited right and opportunity to raise issues and bargain concerning any negotiable subject it desired. Accordingly, the parties agree that, except upon mutual agreement, neither will be obligated to bargain further during the life of this Agreement concerning any matter referred to or covered by this Agreement, except as provided within the Agreement or by law.

SIGNATURE PAGE

In witness hereof, the parties have signed this Agreement on this ____ day of _____, 2023.

CITY OF KISSIMMEE

**KISSIMMEE PROFESSIONAL
FIRE FIGHTERS
IAFF LOCAL 4208**

Olga Sanchez de Fuentes, City Attorney

Stephen Gonnella, Chief Negotiator
President, IAFF Local 4208

Mike Steigerwald, City Manager

Michelle Muckerman
Vice President, IAFF Local 4208

Roxane Walton, Director
Human Resources and Risk Management

Bryan Benson
Negotiating Team

Jim Walls, Fire Chief

Royce Schoby
Negotiating Team

Jeremy F. Donovan, Deputy Fire Chief

Joseph Leone, Deputy Fire Chief

Eric Gentry, Battalion Chief

Ratified by the City Commission this ____ day of _____, 2023.

Olga Gonzalez, Mayor-Commissioner

Approved as to form and legality:

Olga Sanchez de Fuentes, City Attorney

Date

APPENDIX A - FIREFIGHTERS BILL OF RIGHTS

Sections 112.80 – 112.93, Florida Statutes, (the “Firefighters Bill of Rights”) is hereby incorporated by reference in this Agreement.

This appendix is attached for information and ease of reference only. The parties do not intend for the Firefighters Bill of Rights to be a part of the collective bargaining agreement.

It is the intent of the parties to maintain a copy of the current version of the Firefighters Bill of Rights as an appendix. In the event that there is any difference between the appendix and the current statutory version, the parties recognize that the current statutory version controls.

Appendix B –Step Plan

	5% Cola	2022-2023						
	Firefighter	Firefighter	Engineer	Engineer	LT	LT	FA LT	FA LT
Step	Hourly/ 2912	1 Step	Hourly/ 2912	1 Step	Hourly/ 2912	1 Step	Includes \$5.00/hour	1 Step
1	15.75	45,864.00	19.17	55,823.04	21.20	61,734.40	34.68	72,134.40
2	15.79	45,980.48	19.75	57,497.73	21.84	63,586.43	35.57	73,985.60
3	16.26	47,359.89	20.34	59,222.66	22.49	65,494.02	36.49	75,899.20
4	16.75	48,780.69	20.95	60,999.34	23.17	67,458.85	37.43	77,854.40
5	17.25	50,244.11	21.58	62,829.32	23.86	69,482.61	38.41	79,892.80
6	17.77	51,751.44	22.22	64,714.20	24.58	71,567.09	39.41	81,972.80
7	18.30	53,303.98	22.89	66,655.63	25.31	73,714.10	40.44	84,115.20
8	18.85	54,903.10	23.58	68,655.30	26.07	75,925.53	41.50	86,320.00
9	19.42	56,550.19	24.28	70,714.96	26.86	78,203.29	42.60	88,608.00
10	20.00	58,246.70	25.01	72,836.41	27.66	80,549.39	43.73	90,958.40
11	20.60	59,994.10	25.76	75,021.50	28.49	82,965.87	44.89	93,371.20
12	21.22	61,793.92	26.54	77,272.14	29.35	85,454.85	46.08	95,846.40
13	21.86	63,647.74	27.33	79,590.31	30.23	88,018.49	47.32	98,425.60
14	22.51	65,557.17	28.15	81,978.02	31.13	90,659.05	48.59	101,067.20
15	23.19	67,523.89	29.00	84,437.36	32.07	93,378.82	49.89	103,771.20
16	23.88	69,549.60	29.87	86,970.48	33.03	96,180.18	51.24	106,579.20
	10% Cola	2023-2024						
	Firefighter	Firefighter	Engineer	Engineer	LT	LT	FA LT	FA LT
Step	Hourly/ 2912	1 Step	Hourly/ 2912	1 Step	Hourly/ 2912	1 Step	Includes \$5.00/hour	1 Step
1	17.33	50,450.40	21.09	61,405.34	23.32	67,907.84	37.65	78,307.84
2	17.37	50,578.53	21.72	63,247.50	24.02	69,945.08	38.63	80,345.08
3	17.89	52,095.88	22.37	65,144.93	24.74	72,043.43	39.64	82,443.43
4	18.43	53,658.76	23.04	67,099.28	25.48	74,204.73	40.68	84,604.73
5	18.98	55,268.52	23.73	69,112.26	26.25	76,430.87	41.75	86,830.87
6	19.55	56,926.58	24.45	71,185.62	27.03	78,723.80	42.85	89,123.80
7	20.14	58,634.38	25.18	73,321.19	27.85	81,085.51	43.98	91,485.51
8	20.74	60,393.41	25.93	75,520.83	28.68	83,518.08	45.15	93,918.08
9	21.36	62,205.21	26.71	77,786.45	29.54	86,023.62	46.36	96,423.62
10	22.00	64,071.37	27.51	80,120.05	30.43	88,604.33	47.60	99,004.33
11	22.66	65,993.51	28.34	82,523.65	31.34	91,262.46	48.88	101,662.46
12	23.34	67,973.31	29.19	84,999.36	32.28	94,000.33	50.19	104,400.33
13	24.04	70,012.51	30.07	87,549.34	33.25	96,820.34	51.55	107,220.34
14	24.76	72,112.89	30.97	90,175.82	34.25	99,724.95	52.94	110,124.95
15	25.51	74,276.27	31.90	92,881.09	35.27	102,716.70	54.38	113,116.70
16	26.27	76,504.56	32.85	95,667.53	36.33	105,798.20	55.86	116,198.20

Appendix C

City of Kissimmee
FIRE DEPARTMENT
CONTRACT GRIEVANCE PROCEDURE FORM

This form is utilized only for grievances as defined by Article 24 of the Collective Bargaining Agreement. For grievances relating to discipline, the standard City Grievance form (found at U:\PERSONNEL\FORMS) shall be used.

NAME(s): _____

RANK(s): _____

ASSIGNMENT(s): _____

CBA ARTICLE & SECTION # BEING DISPUTED:

STATEMENT OF GRIEVANCE (attached memo if needed):

REQUESTED SOLUTION (attached memo if needed):

SIGNATURE(S): _____ DATE _____

PROCEDURE

Step 1:

Presented to: _____ on _____
Name/Title Date

Battalion Chief's comments and actions: _____

Signature (Battalion Chief) Date

Step 2:

Presented to: _____ on _____
Name/Title Date

Deputy Chief's comments and actions: _____

Signature (Deputy Chief) Date

Step 3:

Presented to: _____ on _____
Name/Title Date

Fire Chief's comments and actions: _____

Signature (Fire Chief) Date

Step 4:

Presented to: _____ on _____
Name/Title Date

City Manager's comments and actions: _____

Signature (City Manager) Date

Step 5:

Presented to: _____ on _____
Name/Title Date

Arbitrator's comments and actions: _____

Signature (Arbitrator) Date

ITEM 7.G

New pavilion at Oak Street Park

Request

Approval of agreement to purchase and construct a new pavilion at Oak Street Park from Top Line Recreation Inc. through an intergovernmental cooperative purchasing agreement

Explanation

This project involves the replacement of a small 20' x 20' pavilion at the Oak Street Park playground with a larger 20' x 40' structure, resulting in enhanced amenities for park users and providing the opportunity for pavilion rentals to residents. The total cost of the new pavilion, including removal of the existing structure, shipping and installation, is \$101,629.

The Parks and Recreation Department seeks to engage Top Line Recreation Inc. for the procurement, delivery and installation of the Oak Street Park pavilion through an intergovernmental cooperative purchasing agreement. This selection follows a competitive bidding and selection process that was successfully concluded on March 3, 2023 by Clay County, Florida as reflected in agreement RFP No. 18/19-2 with Top Line Recreation, Inc.

The term of this agreement commences upon execution and extends through May 27, 2024, coinciding with the expiration date of the master agreement with Clay County. If the master agreement is extended, this agreement can also be extended accordingly.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
00150406-506393	PR1951	Decrease	\$40,000	
10450106-506393	ST2216	Decrease	\$40,000	
15150106-506393	ST2216	Decrease	\$50,000	

Financial Summary:

This project will be funded by a General Fund capital project, a Sales Tax capital project and a Florida Recreation Development Assistance Program Grant with a total available budget of \$130,000. By entering into this agreement, the City will secure favorable pricing and ensure the timely delivery and installation of the Oak Street Park pavilion. Remaining balance will be used for landscaping and site amenities.

Recommendation

Approval of agreement to purchase and construct a new pavilion at Oak Street Park from Top Line Recreation Inc. through an intergovernmental cooperative purchasing agreement

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Parks & Recreation

Presenter:

Attachment(s):

1. (S) Top Line Recreation Agreement - Oak Street Pavilion w exhibits

**AGREEMENT BETWEEN
CITY OF KISSIMMEE AND VENDOR**

THIS AGREEMENT is made this 17 day of October 2023 by and between the CITY OF KISSIMMEE, a municipal corporation of the State of Florida, 101 Church Street, Kissimmee, Florida 34741, hereinafter "City" and Topline Recreation Inc., 2922 Howland Blvd, Suite 3, Deltona, FL 32725, hereinafter "Vendor", collectively hereinafter the "Parties" and each represents as follows:

WITNESSETH

WHEREAS, the City seeks a competent and qualified contractor to provide and install a park shelter at Oak Street Park, 717 North Palm Avenue, Kissimmee, FL 34741; and

WHEREAS, Chapter 287, Florida Statutes, grants government entities the authority to purchase goods and services as a form of inter-governmental cooperative purchasing in order to reduce administrative time and cost involved in the procurement process (i.e., cost of preparing bid specifications, advertising, etc.); and

WHEREAS, Pursuant to the City's Purchasing Manual, the City may procure goods and services from bid or proposals from any government subdivisions when its in the best interest of the City of Kissimmee; and

WHEREAS, Pursuant to a competitive bidding and selection process RFP No. 18/19-2, which is attached hereto as Exhibit A and incorporated herein (hereinafter referred to as 'RFP'), Clay County, as Lead Public Agency, entered into an Agreement with Vendor; and

WHEREAS, the City has determined that the terms and conditions of the Master Agreement match the City's need for a park shelter, and therefore it is economically advantageous and in the best interest of the City to enter into a cooperative purchase contract with Vendor.

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

1. **RECITALS.** The foregoing recitals are true and correct and incorporated herein.
2. **THE CONTRACT DOCUMENTS.** The contract documents consist of this Agreement, the RFP, which is attached hereto as Exhibit A, Clay County, Florida RFP No. 18/19-2 Renewal, which is attached hereto as Exhibit B, Top Line Recreation Quote # TLRQ5191-04, which is attached hereto as Exhibit C, and any subsequent duly executed amendments to any of the aforementioned documents. These contract documents form the Agreement, and all are incorporated herein as if set forth in full. In the event of a conflict between the

aforementioned documents, any duly executed amendment to this Agreement will control, followed by this Agreement, Exhibit A, Exhibit B, and Exhibit C, in that order.

Upon execution of this Agreement, all references made to "Clay County," "County," or "Board of Clay County Commissioners" in Exhibits A and B will be interpreted as pertaining to the City of Kissimmee and City of Kissimmee Commissioners, all references made to "Vendor," in Exhibits A and B will be interpreted as pertaining to Vendor and all terms and conditions of Exhibit A and B not inconsistent with this Agreement, are deemed as having been implemented for use within the City of Kissimmee. It is understood that wherever the words "Clay County," "County," or "Board of Clay County Commissioners" appear, they will be read as "City of Kissimmee," "City," and "City of Kissimmee Commissioners" and wherever the word "Vendor" appears, it will be read as "Vendor."

3. **TERM.** The term of this Agreement shall begin upon execution and continue through May 27, 2024, the date of expiration of the first renewal term of the Master Agreement and subsequent amendments. This agreement may be extended if the Master Agreement is extended.
4. **SCOPE OF WORK.** Vendor agrees to provide the equipment, freight, site work, engineering drawings and calculation, and installation of said equipment at Oak Street Park, 717 North Palm Avenue, Kissimmee, FL 34741 as further described in Exhibit C (hereinafter the "Work") according to the terms, conditions, and pricing further described in Exhibit C.

In providing the Work, Vendor shall:

- A. Be familiar with the Work, deadlines, requirements, and other conditions under which the Work is to be completed.
- B. Coordinate work days, hours, and access to the Parks with the Project Manager along with delivery of the equipment/materials and installation.
- C. Install all equipment/material per the manufacturer's instructions.
- D. Obtain all required permissions and inspections as applicable.
- E. Coordinate with the Project Manager all inspection(s). Complete any items on the punch list generated from the inspection(s).
- F. Meet with the City and/or the Project Manager as requested and as arranged by the parties to review the Work.
- G. Conduct business in a manner that reflects favorably at all times on the Work and the goodwill and reputation of the City.

Within ten (10) days of the Effective Date of this Agreement, Vendor shall provide to the

Project Manager a schedule for the Work showing production and installation timeframes ("Project Schedule").

In entering into this Agreement, Vendor represents that it now has or will secure all equipment and personnel required to perform all Work under this Agreement. Vendor shall assign such personnel as are necessary to assure faithful prosecution and timely delivery of the Work pursuant to the requirements of this Agreement. Vendor shall ensure that the personnel assigned to perform the Work comply with the terms of this Agreement, have current licenses and permits required to perform the Work, and are fully qualified and capable to perform their assigned tasks. Vendor shall submit in writing to the Project Manager the names of key personnel assigned to the Project.

Vendor shall perform the Work using the degree of care and skill ordinarily exercised by like professionals performing the same services under the same conditions in the same geographic area and in compliance with all applicable laws ("Standard of Care").

5. **PAYMENT.** Upon review and approval of Vendor's invoice and verification that products and services have been rendered in conformity with this Agreement, the City shall pay Vendor in accordance with the Local Government Prompt Payment Act, Chapter 218, Part VII, Florida Statutes. Vendor shall not apply any late charges, interest or penalties to any invoice or charges for services until thirty (30) days from the City's receipt of the invoice.
6. **SOVEREIGN IMMUNITY.** The City expressly retains all rights, benefits, and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of sovereign immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of City for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, shall not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.
7. **GOVERNING LAW.** The laws of the State of Florida govern the validity, enforcement, and interpretation of this Agreement. Venue for any cause of action asserted by any party brought in State Court shall be in Osceola County. Venue for any action brought in Federal court shall be in the Middle District of Florida, Orlando Division.
8. **NOTICE.** Any and all notices required by this agreement shall be in writing and either

hand delivered or, if sent by U.S. Mail or overnight delivery shall be addressed as follows:

City of Kissimmee Steve L. Lackey Director Parks and Recreation 101 Church Street, Suite 330 Kissimmee, FL 34741	Vendor Debbie Lloyd Sales Consultant Topline Recreation Inc. 2922 Howland Boulevard Suite 3 Deltona, FL 32725
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9. **PROJECT MANAGERS.** City and Vendor have identified individuals as Project Managers, listed below, who shall have the responsibility for managing the work performed under this Agreement. The person or individual identified by Vendor to serve as its Project Manager for this Agreement, or any replacement thereof, is subject to prior written approval and acceptance of City. If City or Vendor replace their current Project Manager with another individual, an amendment to this agreement shall not be required. City will notify Vendor, in writing, if the current City Project Manager is replaced by another individual.

- A. City's Project Manager's contact information is as follows:

Rod Bargaineer
Director
101 Church Street
Kissimmee, Florida 3741
407.518.2363
Rod.Bargaineer@cityofkissimmee.gov

- B. Vendor's Primary Project Manager's contact information is as follows:

Buildworx, LLC
Joston Wood
401 E. Smith Street
Winter Garden, FL 34787
217.791.4681
joston@buildworx.llc

- C. Vendor's Secondary Project Manager's contact information is as follows:

Topline Recreation Inc.
Debbie Lloyd
2922 Howland Boulevard # 3
Deltona, FL 32725

407.479.1410

debbie@toplinerec.com

10. SUBCONTRACTORS. All Subcontractors shall be bound by the terms and conditions of this Agreement insofar as it applies to their work, but this shall not relieve Vendor from the responsibility to City for the proper completion of all work to be executed under this Agreement, and Vendor shall not be released from the responsibility by any Subcontractor agreement Vendor makes with others. If applicable, Vendor shall be required to furnish to City, in writing, a list of names of the Subcontractors proposed for the principal parts of the work within five (5) days of the Notice to Proceed.

11. NON-ASSIGNMENT. Vendor shall not assign this Agreement or any portion hereof without the express written consent of the City.

12. INDEPENDENT CONTRACTOR AND RESPONSIBILITIES AS EMPLOYEE. In the performance of this Agreement, Vendor will be acting in the capacity of an independent contractor and not as an employee, partner, joint venture, or associate of City. All employees of Vendor shall be, at all times, employees of Vendor under its sole discretion, and not an employee or agent of City. Vendor shall provide competent employees. City may require Vendor to remove any employee it deems careless, incompetent, insubordinate or otherwise objectionable, and, whose continued employment on City property is not in the best interest of City.

13. TERMINATION FOR CONVENIENCE. City reserves the right to terminate the Agreement in whole or part by giving Vendor written notice at least thirty (30) days prior to effective date of termination. Upon receipt of termination from City, Vendor shall only provide those services specifically approved or directed by City. All other rights and duties of the Parties under the Agreement shall continue during such notice period, and City shall continue to be responsible to Vendor for the payment of any obligation to the extent such responsibility has not been excused by breach or default of Vendor.

Upon termination, Vendor shall bill City for all amounts not previously billed and due to Vendor at that time. Vendor shall not be entitled to a profession fee nor expenses for any work commenced or expenses incurred after the notice of termination was received by Vendor, unless specifically approved or requested by City. Vendor shall, however, be entitled to payment for services commenced and approved by City prior to receipt of notice, or with the expressed written consent of City, prior to the effective date of termination.

14. TERMINATION FOR CAUSE. If the City wishes to terminate the Agreement for cause due to the failure of Vendor to perform as required under this Agreement and/or in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances, then City must provide Vendor with written notice of said failure to perform. City must give ten (10) working days from Vendor's receipt of the Notice to Cure for Vendor to cure or take reasonable action to commence to cure the performance concerns specified. If Vendor does not take appropriate action within the ten (10) day period, City may issue a Final Notice to Cure. Vendor will have an additional five (5) working days from the receipt of the Notice to Cure to cure or take reasonable action to commence to cure before City can terminate the Agreement. If Vendor is terminated for cause, the City may provide or employ any necessary labor and materials in lieu of Vendor to finish part or all of the work under the Agreement or to supplement the work of Vendor, and to deduct the cost thereof from any money, then due or thereafter to become due to Vendor; and if such cost shall exceed the balance due to Vendor, then Vendor shall pay the difference to the City.

Notwithstanding the foregoing, City may immediately terminate this Agreement, without providing Vendor with notice of default or opportunity to cure, if City determines that Vendor has failed to comply with any of the terms and conditions of this Agreement related to safety, indemnification or insurance coverage.

Notwithstanding the foregoing, City reserves the right to immediately terminate this Agreement by providing written notice to Vendor, but without an opportunity to cure, if City determines Vendor knowingly furnished any representation, warranty or certification in connection with the solicitation of Vendor's bid or this Agreement, which representation was materially false, deceptive, incorrect, or incomplete.

Notwithstanding the foregoing, City reserves the right to immediately terminate this Agreement by providing written notice to Vendor 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.

15. FORCE MAJEURE. Shall refer to an act of nature (such as, but not limited to, a hurricane, flood, and/or earthquake), war, terrorism, riot, sovereign conduct, strikes, lockouts, fires, epidemics and/or pandemic, adverse governmental conditions or conduct of third parties. Neither City nor Vendor shall be held liable or responsible to the counterparty, nor be deemed to have defaulted under or breached this Agreement for failure or delay in performing any obligation under this Agreement when such failure or delay is caused by an act of Force Majeure. Within twenty-four (24) hours of the occurrence of an act of Force Majeure, the affected party shall notify the counterparty of the act by sending an e-mail

message to the Project Manager of the other party. In addition, the affected party shall provide to the counterparty within seven days of determining the cause of the Force Majeure, a written explanation via e-mail concerning the circumstances that caused the act of Force Majeure and the overall impacts to the Agreement. Upon receipt of the written explanation, the parties shall mutually agree to any contractual modifications as necessary to continue the Agreement with minimal impact to City operations. City maintains the right to terminate the Agreement for convenience, negotiate with the next low bidder, or obtain the goods and/or services through a separate contract.

16. INSURANCE. Vendor shall, prior to commencing work, furnish evidence to the City of Kissimmee of required insurance requirement naming City of Kissimmee as additional insured. During the term of the Agreement and any renewals, Vendor at their sole cost and expenses shall maintain insurance coverage as follows:

- A) **Workers Compensation:** Vendor will provide Worker's Compensation coverage for all employees at the site location. The limits will be statutory for Worker's Compensation and \$300,000.00 for Employers' Liability.
- B) **Comprehensive General Liability:** Vendor will provide such coverage with limits of not less than \$1,000,000.00 per occurrence combined single limit for Bodily Injury and Property Damage including coverage for premises/operations, contractual liability, personal injury, explosion, collapse, underground hazard, products/completed operations, broad form property damage, cross liability and severability of interest clause. This policy of insurance must be written in an "occurrence" based format.
- C) **Comprehensive Automobile Liability:** Vendor will provide coverage for all owned and non-owned vehicles for limits of not less than \$1,000,000.00 per occurrence.
- D) **Umbrella Insurance:** Vendor will provide an umbrella in excess to the coverage in paragraphs B), and C) of not less than \$1,000,000.00 per occurrence.

Vendor must provide confirmation of coverage renewal via an updated certificate of insurance should any policies expire prior to the expiration of this Agreement. Vendor shall provide thirty (30) day prior written notification to the City in the event coverage is cancelled, modified, or nonrenewed. If any required insurance coverage is cancelled, terminated or revoked, Vendor shall immediately suspend its operations until replacement insurance is obtained and verified.

17. INDEMNIFICATION. Vendor shall, at all times hereafter, indemnify, hold harmless and, at the option of City counsel, defend or pay for an attorney selected by City counsel to defend City, its Commission, officers, agents and employees from and against any and all claims, suits, actions, demands, causes of actions of any kind or nature, including all costs, expenses and attorneys fees, arising out of the negligent or wrongful act or omission of Vendor, its officers, agents, employees, servants, independent contractors or subcontractors.

Vendor shall inform City in advance of planned actions and/or conduct related to Vendor's handling of any such action or claim. City shall inform Vendor of any known restrictions, defenses or limitations that may arise or exist by reason of City being a governmental entity.

City shall not be liable for, and Vendor agrees to indemnify City against, any liability resulting from injury or illness, of any kind whatsoever, to Vendor's employees, agents, representatives, designees, or servants during the performance of the services, duties, and responsibilities contemplated herein.

The above indemnification provisions shall survive the expiration or termination of this Agreement.

18. PERFORMANCE BOND. Vendor shall post a performance bond for the total amount of the Work.

19. TAXES. Vendor certifies that all state and federal tax exemptions applicable to City will be applied.

20. SAFEGUARDS, PRESERVATION OF PROPERTY, AND FAILURE TO RESPOND TO DAMAGED PROPERTY. Vendor shall maintain a safe and secure worksite for the duration of the Work. Vendor shall maintain all areas in a neat and presentable condition. Vendor shall also maintain sufficient safeguards against the occurrence of accidents, injuries or damage to any person or property around the Work and secure all equipment, tools, and related materials.

Vendor shall preserve from damage all property, structures, utilities, services, roads, trees, and shrubbery along the line of the Work, or which is in the vicinity of or is in any way affected by the Work, the removal or destruction of which is not called for by the scope of work. This applies to public and private property. Vendor shall be held responsible for immediately repairing or replacing, at its own cost and expense, such property to the satisfaction of City which is damaged by reason of Vendor's Work on or around such property.

In case of failure on the part of Vendor to restore and/or replace such property, or to make good such damage or injury, City may upon 48 hours' notice, proceed to repair, rebuild or otherwise restore such property, as may be deemed necessary, and the cost thereof will be deducted from any monies due or which may become due to Vendor under the Agreement. Nothing in this provision shall prevent Vendor from receiving proper compensation for the removal, damage or replacement of any public or private property as long as such work is authorized by City, provided that such property has not been damaged as a result from the performance of the Work or through fault of Vendor, its employees or agents.

21. AUTHORITY TO SUSPEND WORK. City and/or Project Manager shall have the authority to suspend the Work, wholly or in part, for such period or periods as may be deemed necessary, due to unsuitable weather or other conditions which are considered unfavorable for the prosecution of the Work. Should City be prevented or enjoined from proceeding with the Work either before or after the start of any Work by reason of any litigation or other reason beyond the control of City, Vendor shall not be entitled to make or assert claim for damage by reason of said delay, but time for completion of the Work will be extended to such reasonable time as City and/or Project Manager may determine and will be set forth in writing. In the event of any such suspension, Vendor shall be paid for all Work actually and timely rendered up to the date of suspension and for all Work so rendered after cessation of the suspension and resumption of the Work. In no event shall City be liable to the Contractor 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.

22. WARRANTIES AND REPRESENTATIONS. Vendor represents that it is experienced, competent and qualified to perform the Work, services, duties, and obligations contemplated by this Agreement. Vendor has and shall maintain at all times during the term of this Agreement sufficient expertise and other resources to perform its Work, services, duties and obligations under this Agreement. Vendor holds and shall maintain at all times during the term of this Agreement all certifications as may be necessary to perform its work, services, duties and obligations under this Agreement.

Vendor binds itself to use such materials and to so construct, install, deliver, and perform the Work that the Work and improvements will be and remain in good repair and condition for a period of two (2) years after the date of completion and acceptance of all Work and improvements by City, and agrees that it will repair or reconstruct said Work and improvements at its sole cost and expense necessitated within that time by any fault of materials, specifications, methods or processes employed in the construction or installation thereof, and Vendor further agrees and binds itself that said improvements for such term

shall be and remain in good serviceable condition, free from any defects that will impair its usefulness and should same, at any time within said period, in the judgment of City, whose judgment shall be final and conclusive, become defective and be not in a good serviceable condition, free from any defects that will impair its usefulness by reason of any defective materials, workmanship, specifications, methods, or processes, then City shall cause to be served upon Vendor a notice in writing to repair such Work or portions thereof, or to reconstruct the same and put same in satisfactory and good condition, and Vendor shall promptly comply therewith at its sole cost and expense.

Any warranty provided by Vendor or for which Vendor is responsible is limited only by such terms and conditions as may be expressly stated in the warranty document and the Agreement.

City reserves the right should an error be discovered in the partial or final estimates, or should proof of defective Work or materials used by or on the part of Vendor be discovered after the final payment has been made, to claim and recover from Vendor, by process of law, such sums as may be sufficient to make good the defects in the Work and materials.

23. WAIVER OF LIENS. Prior to final payment of the Agreement Sum, a final waiver of lien must be submitted by all suppliers, subcontractors, and/or Vendor who participated in the Work that is the subject of this Agreement.

24. REMEDIES.

A) Damages. The City reserves the right to recover any ascertainable actual damages incurred as a result of the failure of Vendor to perform in accordance with the requirements of this Agreement, or for losses sustained by City resultant from Vendor's failure to perform in accordance with the requirements of this Agreement.

B) Correction of Work. If, in the judgment of City, work provided by Vendor does not conform to the requirements of this Agreement, or if the work exhibits poor workmanship, City reserves the right to require that Vendor correct all deficiencies in the work to bring the work into conformance without additional cost to City, and / or replace any personnel who fail to perform in accordance with the requirements of this Agreement. City is the sole judge of non-conformance and the quality of workmanship.

25. WASTE AND HAZARDOUS MATERIAL DISPOSAL. Vendor shall make all arrangements necessary to accomplish off-site disposal of all debris, trash, or waste

generated by the Work, including, but not limited to, any hazardous materials, all at no additional cost to City, and in accordance with federal, state, and local laws and ordinances.

26. 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. Payment after a default shall not be deemed a waiver of any right or acceptance of defective performance.

27. HEADINGS AND CAPTIONS. All headings and captions contained in this Agreement are provided for convenience only, do not constitute a part of this Agreement and may not be used to define, describe, interpret or construe any provision of this Agreement.

28. AMENDMENTS. This Agreement may be altered, amended, extended, modified and/or revised only by a written instrument subsequently executed by the parties to this Agreement.

29. SEVERABILITY. If any one or more of the covenants or provisions of this Agreement shall be held to be contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall, for any reason whatsoever, be held invalid, then such covenants or provisions shall be null and void, shall be deemed separable from the remaining covenants or provisions of this Agreement, and shall, in no way, affect the validity of the remaining covenants or provisions of this Agreement.

30. RECORDS. All contracts, correspondence, memoranda, and other documents accumulated, acquired, prepared, or received by the parties hereto created by this Agreement shall be maintained as public records to the extent required by law and at minimum for five (5) years. The City reserves the right to examine and/or audit such records. This Section shall survive termination or expiration of this Agreement.

31. CHANGES IN WORK ITEMS OR SCOPE. City and Vendor expressly agree that no changes in materials or description of work shall take place unless in writing and agreed upon by Vendor and City. All Change Orders must be approved by City in accordance with City Purchasing Manual Policies and Procedures before work commences. No changes in the scope of work shall be made by Vendor unless Vendor has received a prior written Change Order signed by an authorized representative of City, except in an emergency where there is danger to life or risk of significant damage to property. No extra costs shall be paid to the Vendor as a result of Vendor's failure to properly evaluate the extent of the rehabilitation work.

32. GUARANTEES AND WARRANTIES. Vendor shall guarantee to correct any work that fails to conform to this Agreement and shall correct such defects due to faulty materials, equipment, or workmanship during the Term of this Agreement. All reasonable work to be corrected shall be specified in writing by City and delivered to Vendor pursuant to the Notice Section above. The provisions of this article apply to work done by subcontractors as well as work done by Vendor.

33. BREACH. Failure of Vendor or City to perform the covenants, conditions, or provisions of the Agreement shall constitute a material default and breach of the Agreement. In the event of any default, City has the right to terminate this Agreement in accordance with the provisions of Paragraph 14 above. In the event of any default of the City, except the payments required under the Agreement, Vendor may terminate this Agreement immediately without notice. If City fails to timely pay the monies required under this Agreement, it has fifteen (15) days after written notice from Vendor to cure said default, unless tCity disputes satisfactory performance of services.

34. ATTACHMENTS. Attachments to this Agreement shall be deemed to be incorporated into this Agreement as if fully set forth verbatim into the body of this Agreement.

35. NO THIRD PARTIES BENEFICIARIES. This Agreement shall inure to the benefit of the Parties to this Agreement and is for the exclusive benefit of said Parties. This Agreement shall not be deemed to be made for the benefit of any other entity or person not so specified, including specifically but not limited to the selected Vendor.

36. COMPLIANCE WITH FEDERAL, STATE, COUNTY, AND LOCAL LAWS. The Parties shall comply with all Federal, State, County and Local laws, regulations, ordinances, rules and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury, or loss. In any emergency affecting the safety of persons or property, Vendor shall act, at its discretion, to prevent threatened damage, injury or loss. Vendor is responsible for obtaining all necessary permits and licenses and the payment of any fees necessary for performance of this Agreement.

37. WAVIER OF JURY TRIAL/AWARD OF ATTORNEY'S FEES. It is mutually agreed by and between the Parties that each of the Parties do hereby waive trial by jury in any action, proceeding or claim which may be brought by either of the parties hereto against the other on any matters concerning or arising out of this Agreement. In any such action, each party shall be responsible for their own attorney's fees, including those incurred in appellate proceedings.

38. PUBLIC RECORDS. The Vendor 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 Vendor shall keep and maintain public records required by the City to perform the service.

If the Vendor has questions regarding the application of Chapter 119, Florida Statutes, to the Vendor's duty to provide public records relating to this Contract, contact the Custodian of Public Records at 407-518-2308, cityclerkemail@kissimmee.gov, and 101 Church Street, Kissimmee, Florida 34741.

- a. If the City's Custodian of Records requests records from the Vendor, the Vendor 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.
- b. The Vendor 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 Vendor does not transfer the records to the City.
- c. Upon completion of the contract, the Vendor shall transfer, at no cost, to the City all public records in possession of the Vendor or keep and maintain public records required by the City to perform the service. If the Vendor transfers all public records to the City upon completion of the Contract, the Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Vendor keeps and maintains public records upon completion of the Contract, the Vendor 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. Unless otherwise directed by the City, all records will be transferred at the conclusion of the Contract.
- d. Upon notice to the Vendor of a request to inspect or copy public records relating to a City's contract for services, the Vendor shall provide the records to the City or allow the records to be inspected or copied within a reasonable time.
- e. If the Vendor 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.

f. A Vendor who fails to provide the public records to the City within a reasonable time may be subject to penalties under Florida Statutes §119.10.

39. FUNDING. The obligation of City for payment to Vendor is limited to the availability of funds appropriated in a current fiscal period, and continuation of any contractual relationship into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

40. E-VERIFY. In accordance with Section 448.095, Florida Statutes, Vendor 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 Vendor enters into a contract with a subcontractor performing work or providing services on its behalf, Vendor 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 Vendor 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. Vendor 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).

City acknowledges that Vendor may use workers outside the United States, who will not be subject to e-verification.

41. SCRUTINIZED COMPANIES CERTIFICATION. By signing this Agreement, Vendor 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; and, for bids, proposals or contracts for goods or services of one million (\$1,000,000) dollars or more, that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria, per Section 287.135, Florida Statutes. If City determines, using credible information available to the public, that Vendor has submitted false certification, City shall provide Vendor with written notice of its determination. Vendor 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.

42. FOREIGN GIFTS AND CONTRACTS. Vendor must comply with any applicable disclosure requirements in Section 286.101, Florida Statutes.

43. SOCIAL, POLITICAL, OR IDEOLOGICAL FACTORS. Pursuant to Section 287.05701, Florida Statutes, as may be amended, the City cannot give preference to a Vendor based on the Vendor's social, political, or ideological interest.

44. PROHIBITED TELECOMMUNICATIONS EQUIPMENT. Vendor represents and certifies that it and its applicable subcontractors do not and will not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR Sections 52.204-24 through 52.204-26. By executing this Agreement, Vendor represents and certifies that Vendor and its applicable subcontractors must not provide or use such covered telecommunications equipment, system, or services for any scope of work performed for the City for the entire duration of this Agreement. If Vendor is notified of any use or provisions of such covered telecommunications equipment, system, or services by a subcontractor at any tier or by any other source. Vendor must promptly report the information in 40 CFR Section 52.204-25(d)(2) to the City.

45. PUBLIC ENTITY CRIMES. In accordance with the Public Entity Crimes Act (§287.133, Florida Statutes) a person or affiliate who has been placed on the convicted vendor list maintained by the State of Florida Department of General Services following a conviction for a public entity crime, may not submit a Bid on a contract to provide any goods or services to a public entity, may not submit a Bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit Bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in §287.017, for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

46. ANTITRUST VIOLATIONS; DENAIL OR REVOCATION UNDER SECTION 287.137, FLORIDA STATUTES. Pursuant to Section 287.137, Florida Statutes, as may be amended, a person or an affiliate who has been placed on the antitrust violator vendor list (electronically published and updated quarterly by the State of Florida) following a conviction or being held civilly liable for an antitrust violation may not submit a bid,

proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity. By entering this Agreement, Vendor certifies neither it nor its affiliate(s) are on the antitrust violator vendor list at the time of entering this Agreement. False certification under this paragraph or being subsequently added to that list will result in termination of this Agreement, at the option of the City consistent with Section 287.137, Florida Statutes, as amended.

- 47. NON-DISCRIMINATION.** Vendor shall not discriminate against any client, employee or applicant for employment because of race, age, color, religion, sex, sexual orientation, sexual preference, gender identity, national origin, physical or mental disability, marital status or medical status. Vendor shall comply with all applicable sections of the Americans with Disabilities Act. Vendor agrees that compliance with this provision constitutes a material condition to this Agreement, and that it is binding upon the Vendor, its successors, transferees, and assignees, for the period during which services are provided. Vendor further agrees to ensure that its independent contractors/subcontractors are not in violation of the terms of this provision.
- 48. ENTIRE AGREEMENT.** This Agreement constitutes the complete, full, and wholly independent agreement among the parties to this Agreement with regard to the matters contained herein. This Agreement also supersedes all prior representation, statements, and understandings among the Parties to this Agreement with respect to the matters and things addressed herein, either written or oral.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed:

VENDOR-

TOP LINE RECREATION INC

By:

Jamie Parker

Title:

PRESIDENT

Date:

10/17/2023

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 17 day of October, 2023, by means of ☒ physical presence or ☐ online notarization, by (name of person) as (type of authority) for (name of party on behalf of whom instrument was executed), a Florida corporation, who is personally known to me or has produced identification.

Notary Seal:

Notary:

Jennifer Janelle

Print Name:

Jennifer Janelle

My Commission Expires:

3/27/27



JENNIFER JANELLE
Commission # HH 379138
Expires March 27, 2027

CITY OF KISSIMMEE

Olga Gonzalez, Mayor

Date:

Attest:

City Clerk

Approved as to form and legality:

City Attorney

EXHIBIT A
CLAY COUNTY RFP NO. 18/19-2

EXHIBIT A

BOARD OF COUNTY COMMISSIONERS CLAY COUNTY, FLORIDA

RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS

**DUE DATE: Monday, March 18, 2019- 4:00 p.m.
OPEN DATE: Tuesday, March 19, 2019 -1:00 p.m.**



Issued By:
Clay County Board of County Commissioners
Purchasing Department

TABLE OF CONTENTS

RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS

Request for Proposal Advertisement	3-5
Request for Proposal Instructions	6-12
Specifications.....	13-17
Bid Forms	18-20
Sample Quote Sheet.....	21
Corporate Details	22
Certification Regarding Debarment.....	23
Scrutinized Companies Certification.....	24
No Bid Statement.....	25
Procedures for Bid Opening	26-37

Attachments:

Form W-9

REQUEST FOR PROPOSAL NOTICE

NOTICE IS HEREBY GIVEN that sealed proposals will be received until 4:00 P.M., Monday, March 18, 2019, at the Clay County Administration Building, Fourth Floor, Reception Area, 477 Houston Street, Green Cove Springs, Florida 32043, for the following:

RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS

Proposals will be opened at 1:00 P.M., or as soon thereafter as possible, on Tuesday, March 19, 2019 in the Clay County Administration Building, Conference Room "B", Fourth Floor, 477 Houston Street, Green Cove Springs, Florida, in the presence of the Purchasing Department staff and all other interested persons.

The opened Proposals will be read aloud, examined for conformance to specifications, tabulated, and preserved in the custody of the Purchasing Department. Proposals submitted will be evaluated by the Finance and Audit Committee. The Finance and Audit Committee of the Board will present its recommendation to the Board of County Commissioners as soon thereafter as possible. At the discretion of the Board of County Commissioners or the Finance and Audit Committee, companies submitting proposals may be requested to make oral presentations as part of the evaluation process.

Proposals will not be valid unless received by the proposal deadline and in a sealed envelope marked **"RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS"** to be received until 4:00 P.M., Monday, March 18, 2019. Envelopes are to be submitted in person or delivered by courier to the above address. No postal mail will be accepted.

During the bidding process, all prospective proposers are hereby prohibited from contacting (i) any member of the Board of County Commissioners, the County Manager or any County employee or agent regarding the solicitation in any respect during the solicitation period, and (ii) the County Manager or any County employee or agent regarding the solicitation in any respect during the evaluation period. The violation of this rule shall result in the automatic disqualification of any response to a bid solicitation submitted by the violator (as specified in Section P of Chapter 8 of the Purchasing Manual attached hereto). The no-contact rule set forth shall not apply to inquiries submitted to County employees or agents in the manner specifically provided in the bid solicitation package regarding the distribution thereof, or to communications seeking clarification regarding instructions or specifications submitted to County employees or agents in the manner specifically provided for in the bid solicitation package, or to pre-bid conferences provided for in the bid solicitation package, or to formal presentations by finalists to the Board of County Commissioners or any committee thereof specifically contemplated in the bid solicitation package. For information concerning procedures for responding to this Bid, contact the Purchasing Department, Donna Fish by email purchasing@claycountygov.com or at (904) 278-3761.

The County reserves the right to waive formalities in any response, to reject any or all responses with or without cause, to waive technical and non-technical or non-material defects in the solicitation or submittal of any responses, including the lack of availability of adequate funds, regulatory agency requirements, to make award in part or completely, and/or to accept the response that, in its judgment, will be in the best interest of the County of Clay. Bid proposals in which the prices obviously are unbalanced will be rejected.

FOLLOWING THE BID OPENING AND TABULATION, A “NOTICE OF INTENT TO AWARD BID” OR A “NOTICE OF REJECTION OF ALL BIDS” WILL BE POSTED ON THE INTERNET AT: <http://www.claycountygov.com/departments/purchasing-division/bcc-bid-tabs-current-bids-intent-bids-rejection-bids>. THIS WEB PAGE CAN ALSO BE ACCESSED FROM THE HOMEPAGE OF THE COUNTY’S WEBSITE AT: www.claycountygov.com BY FOLLOWING THE “NOTICE OF INTENT BIDS” LINK UNDER THE “BUSINESS” ROLLOVER BUTTON ON THE COUNTY’S HOMEPAGE. NO OTHER NOTICE WILL BE POSTED.

PROSPECTIVE BIDDERS ARE NOTIFIED THAT THE FAILURE TO INCLUDE WITHIN THE SEALED BID ENVELOPE A PROPER BID BOND OR OTHER SECURITY APPROVED UNDER THE COUNTY’S PURCHASING POLICY, OR THE FAILURE TO FILE A WRITTEN PETITION INITIATING A FORMAL PROTEST PROCEEDING WITHIN THE TIMES AND IN THE MANNER PRESCRIBED IN SECTION 8. (N), OF SAID POLICY, SHALL CONSTITUTE A WAIVER OF THE RIGHT TO PROTEST THE BID SOLICITATION, ANY ADDENDUM THERETO, OR THE BID DECISION, AS APPLICABLE, AND TO INITIATE A FORMAL PROTEST PROCEEDING UNDER SAID POLICY. THE COUNTY’S PURCHASING POLICY CAN BE VIEWED AT THE COUNTY’S WEBSITE BY FOLLOWING THE APPROPRIATE LINKS FROM THE HOMEPAGE ADDRESS SET FORTH ABOVE.

A person or affiliate who has been placed on the convicted bidder list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted bidder list.

-----END OF NOTICE-----

BID ADVERTISEMENTS SCHEDULE

**RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND
PLAYGROUNDS**

(CLAY TODAY) For publication on: February 14, 2019

(CLAY COUNTY WEBSITE) For: February 14, 2019

PLEASE SEND ORIGINAL INVOICE AND PROOF OF PUBLICATION TO:

Clay County Board of County Commissioners
Purchasing Department
477 Houston Street
Green Cove Springs, Florida 32043
ATTENTION: Donna Fish



Lorin L. Mock
Acting County Manager

REQUEST FOR PROPOSAL INSTRUCTIONS

RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS

1. **Delivery and Receipt of Bids:** All sealed Proposals submitted shall be received by the Purchasing Department of Clay County, Florida.

Proposals submitted in person or by courier services will be received at:

Clay County Administrative Building
Fourth Floor, Reception Area
477 Houston Street, Green Cove Springs, Florida 32043

Three copies of the Proposal must be received in a sealed envelope. Proof of liability insurance, form W-9 taxpayer identification number, and bid information shall be included with all responses submitted.

The words “**RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS**” shall be clearly marked on the front and back of the envelope containing the Proposal.

2. **Due Date and Opening Date:** Proposals will be received by carrier or in person until Monday, March 18, 2019 at 4:00 p.m. and will be opened on Tuesday, March 19, 2019 at 1:00 p.m. or soon thereafter, in the Clay County Administration Building, 477 Houston Street, Conference Room “B”, Fourth Floor, Green Cove Springs, Florida. Bids will be reviewed by Clay County as soon thereafter as possible.
 - A. All Proposals will be “clocked” at the time they are received to indicate the time and date of receipt.
 - B. Proposals WILL NOT be accepted in person after the time and date specified.
 - C. Proposals received by carrier WILL NOT be accepted if they are received after the time and date specified regardless of the circumstances.
 - D. No postal mail will be accepted.
3. **Withdrawal of RFP:** Proposals may be withdrawn by a written or faxed request by the Bidder and received by the Purchasing Department before the date and time for receiving Proposals has expired. Negligence on the part of the Bidder in preparing a Proposal is not grounds for withdrawal or modification of a Proposal after such Proposal has been opened by the County. Bidders may not withdraw or modify a Proposal after the appointed Bid Opening. Bidders may not assign or otherwise transfer their Proposals.
4. **Inquiries/Questions:** Any questions regarding this RFP must be directed to **Donna Fish** (the authorized contact person) via email at purchasing@claycountygov.com (preferred method) or by calling (904) 278-3761. Written inquiries/questions must be received by **March 6, 2019**. Responses to questions, clarifications, and addenda will be distributed to potential Bidders by email. It is the responsibility of interested Bidders to verify if this information has been issued prior to submitting a Bid.

5. **No Contact Period:** During the Bidding process, all prospective Bidders are hereby prohibited from contacting (1) any member of the Board of County Commissioners, the County Manager or any County employee or agent regarding the solicitation in any respect during the solicitation period, and (2) the County Manager or any County employee or agent regarding the solicitation in any respect during the evaluation period. The violation of this rule shall result in the automatic disqualification of any Bid submitted by the violator, as specified in Section P of Chapter 8 of the Clay County Purchasing Manual. **Exceptions:** The no-contact rule set forth shall not apply to inquiries submitted to the authorized contact person, the pre-bid conference, or to formal presentations by finalists to the Board of County Commissioners or to the County's evaluation committee.
6. **Additional Evaluation:** The County reserves the right to request any additional information from Bidders after Bid Opening and before award as may be necessary to assist in review and evaluation of any Bid prior to submittal of a recommendation for award to the Board of County Commissioners.
7. **Award:** The Bid will be awarded to the responsible Bidder(s) submitting a Bid determined to provide the best value to the County with price, technical, and other applicable factors considered. The County reserves the right to award to multiple bidders.
8. **Waiver of Formalities/Rejection of Bids:** The County reserves the right to waive formalities in any Bid, to reject any or all Bids with or without cause, to waive irregularities/technicalities, and waive technical and non-technical or non-material defects in the Bid document or submittal of any Bid. The County reserves the right to make award either in part or completely, and/or to accept the Bid that, in its judgment, will be in the best interest of the County. Bids in which the prices obviously are unbalanced will be rejected. The County reserves the right to reject any and all Bids and to re-advertise for all or any part of this solicitation as deemed in its best interest.
9. **Cancellation of Bid:** Clay County reserves the right to cancel a solicitation at any time prior to approval of the award. The decision to cancel a solicitation cannot be the basis for a protest under the formal protest process as referenced herein.
10. **No Bid:** Each company not intending to respond to this Bid should reply with a written "No Bid Statement". Such action will maintain the company on the appropriate active Bidder solicitation list. Three (3) failures to respond to solicitations may result in deletion from the Bidder solicitation list.
11. **Bid Errors:** Where Bid forms have erasures or corrections, each erasure or correction must be initialed in ink by the Bidder. In case of unit price Bid items, if an error is committed in the extension of an item, the unit price as shown in the Bid response will govern. Errors between any sum, computed by the Bidder, and the correct sum thereof will be resolved in favor of the correct sum. Any discrepancy between words and numbers will be resolved in favor of the written words.
12. **Deviations:** Bidders are hereby advised the County will only consider Bids that meet the specifications and other requirements imposed upon them by this Bid document. In instances where a deviation is stated in the Bid Form, said Bid will be subject to rejection by the County in recognition of the fact that said Bid does not meet the exact requirements imposed upon the Bidder by the Bid or Contract documents.

13. **Bid Protests:** Any company affected adversely by the County's decision may file with the County Purchasing Department a "Notice of Protest" in writing within 72 hours after the posting of the recommended award. Failure to file a written Notice of Protest shall constitute a waiver of proceedings under Chapter 8 (N) of the Clay County Purchasing Policies. Failure to file a written petition initiating a formal protest proceeding within the time frame and in the manner prescribed in Section 8 (N) of said policy shall constitute a waiver of the right to protest the Bid solicitation, any addendum thereto, or the Bid award recommendation or decision, and to initiate a formal protest proceeding under said policy. The County's Purchasing Policy may be viewed at the County's website by following the appropriate links from the Homepage.
14. **Public Entity Crimes:** Pursuant to Section 287.133(2)(a) of the Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a Bid for a Contract to provide any goods or services to a public entity, may not submit a Bid for a Contract with a public entity for the construction or repair of a public building or public work, may not submit Bids on leases of real property to a public entity, may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a Contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. By submitting a Bid, Bidder attests that they have not been placed on the "Convicted Vendor List".
15. **Debarment:** By submitting a Proposal, the Bidder certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Florida and that it is not an agent of a person or entity that is currently debarred from submitting proposals for contracts issued by any subdivision or agency of the State of Florida.
16. **Laws and Regulations:** The Bidder shall comply with all laws and regulations applicable to provide the goods and/or services specified in this solicitation. The Bidder shall be familiar with all federal, state and local laws that may affect the goods and/or services offered. All applicable Federal and State laws, municipal and Clay County ordinances, and the rules and regulations of all authorities having jurisdiction over any part of the project shall apply to the entire project and Contract.
17. **Scrutinized Companies Certification:** In compliance with subsection (5) of Section 287.135(5), Florida Statutes the Bidder certifies that the company is not participating in a boycott of Israel as defined in subsection (1) of the Statute; is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as referred to in subsection (2) of the Statute; and does not have business operations in Cuba or Syria as defined in subsection (1) of the Statute. The included Scrutinized Companies Certification Form must be completed and returned as part of the bid submittal.
18. **Laws and Regulations:** The Bidder shall comply with all laws and regulations applicable to provide the goods and/or services specified in this solicitation. The Bidder shall be familiar with all federal, state and local laws that may affect the goods and/or services offered. All applicable Federal and State laws, municipal and Clay County ordinances, and the rules and regulations of all authorities having jurisdiction over any part of the project shall apply to the entire project and Contract.

19. **Copyright Restrictions:** Both the County seal and the County logo are being registered for a copyright. Neither the Clay County seal nor the logo may be used or provided to non-Clay County government users for use on company Bids, presentations, etc.

20. **Indemnification:** The awarded Bidder shall indemnify and hold harmless the County, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the company and other persons employed or utilized by the company in the performance of the Contract. The provisions of Florida Statute 768.28 applicable to Clay County, Florida apply in full to this Contract. Any legal actions to recover monetary damages in tort for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the County acting within the scope of his/her office or employment are subject to the limitations specified in this statute.

No officer, employee or agent of the County acting within the scope of his/her employment or function shall be held personally liable in tort or named as a defendant in any action for any or damage suffered as a result of any act, event, or failure to act. The County shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of his/her employment. This exclusion includes actions committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

21. **Insurance Requirements:** Prior to commencement of the project, the awarded Bidder shall provide the County Purchasing Department with proof of the following insurance:

a. Commercial General Liability

1. General Aggregate	\$1,000,000
2. Products and Completed Operations Aggregate	\$1,000,000
3. Personal and Advertising Injury	\$1,000,000
4. Each Occurrence	\$1,000,000
5. Fire Damage (any one fire)	\$ 50,000
6. Medical Expense (any one person)	\$ 5,000

b. Automobile Liability

1. Any automobile-Combined bodily injury/property damage, with minimum limits for all additional coverages as required by Florida law	\$1,000,000
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c. Workers Compensation/Employers Liability

1. Workers Compensation	statutory limits
2. Employers Liability	
a. Each Accident	\$ 100,000
b. Disease-Policy	\$ 500,000
c. Disease-Each Employee	\$ 100,000

d. Professional Liability

1. When required by Contract-per occurrence	\$ 1,000,000
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The awarded Bidder must maintain insurance coverage at the above-prescribed levels through the date of completion of the project and such coverage must include all independent Contractors and Subcontractors. Either prior to, or simultaneously with the execution of the Contract, the awarded Bidder must deliver certificates of insurance for the required insurance coverage to the County naming "Clay County, a political subdivision of the State of Florida, the Board of County Commissioners, Clay County, Florida; and all public agencies of Clay County, as their interests may appear" as "Additional Insured." Said certificates of insurance shall also include a thirty-day prior written notice of cancellation, modification or non-renewal to be provided to the County.

22. **Performance and Payment Bond Requirements:** Performance and Payment Bonds are not required for projects of \$200,000^{.00} or less. Prior to commencement of a project exceeding \$200,000^{.00}, the awarded Bidder shall file a 100% Performance Bond and Payment Bond (using Clay County's Standard Form) in the Public Record of Clay County, Florida, Recording Dept./Room 130, 825 North Orange Avenue, Green Cove Springs, Florida 32043. The recorded Performance and Payment Bonds shall be provided prior to the commencement of construction to Clay County Purchasing Department, PO Box 1366, Green Cove Springs, Florida 32043. Performance and Payment Bonds must be increased in accordance with any change order increases on the project.
23. **Bid Preparation Costs:** By submission of a Bid, the Bidder agrees that all costs associated with the preparation of his/her Bid will be the sole responsibility of the Bidder and shall not be borne by the County. The Bidder also agrees that the County bears no responsibility for any costs associated with the preparation of their Bid and/or any administrative or judicial proceedings resulting from the solicitation process.
24. **Business Registration Requirement:** In accordance with Chapters 605-623, Florida Statutes, in order to do business in the State of Florida, corporations (and other business designations) are required to be registered and in good standing with the Department of State, Division of Corporations. To be eligible to receive a contract and/or purchase order registration must be accomplished prior to the initial posting indicating intent to award to that vendor. Failure to be registered may be cause for disqualification. Contact the Division of Corporations at (850) 245-6000. Online-filing is available at: <http://dos.myflorida.com/sunbiz>
25. **Contractor Qualifications and Requirements:** At the time of Bid Opening, all Bidders must be certified or registered pursuant to Chapter 489, Florida Statutes, or hold a Clay County certification under Article III of Chapter 7 of the Clay County Code, as applicable, at the time of submitting a Bid. All Bidders must submit evidence of current state certification or registration, or County certification, as applicable, prior to award of this Bid.

The following licensing requirements shall apply when the applicable Florida statute mandates specific licensing for Contractors engaged in the type of work covered by this solicitation.

- a. State of Florida, Department of Professional Regulation, Construction Industries Licensing Board and licensed by other federal, state, regional, county or municipal agencies having jurisdiction over the specified construction work.
- b. Said licenses shall be in the Bidder's name as it appears on the Bid Form. Bidder shall supply a copy of each applicable license showing the appropriate license numbers, with expiration

dates as required by the County. Failure to hold and provide proof of proper licensing, certification and registration may be grounds for rejection of the Bid and/or termination of the Contract.

- c. Subcontractors Contracted by the Prime Contractor shall be licensed in their respective fields to obtain construction permits from the County. Said license must be in the name of the subcontractor.

The following licensing requirements shall apply when applicable (Contractor Prequalification):

Florida Law and Rules of the State of Florida, Department of Transportation, require contractors to be prequalified with the Department in order to bid for the performance of road, bridge, or public transportation construction contracts greater than \$250,000.00. The Contractor Prequalification process results in the issuance of a Certificate of Qualification for each successful applicant which lists the approved work classes and the Maximum Capacity Rating in dollars. It is the responsibility of potential bidders to review the requirement and meet the qualifications listed at: http://www.dot.state.fl.us/cc-admin/PreQual_Info/prequalified.shtm. Contractors not meeting the applicable work types associated with the scope of the work may utilize subcontractors to assist with meeting the requirement of all necessary prequalification work classes.

26. **Qualification:** The County shall have the right to review the references, experience of assigned personnel, and qualifications of the Contractor in order to make the final determination of acceptability of the Contractor to be awarded the Contract and construct the work.

The Board of County Commissioners may reject, at its sole discretion, any Bidder the Commission finds to lack, or who's present or former executive employees, officers, directors, stockholders, partners or owners are found by the Commission to lack honesty, integrity, or moral responsibility. The Commission's finding may be based on any of the following factors: the disclosure required herein, the County's own investigation, public records, or any other reliable source of information. The Commission may also reject any Bidder failing to make the disclosure required herein. By submitting a Bid, Bidder recognizes and accepts that the Board of County Commissioners may reject any Bid at its sole discretion and the Bidder waives any claim it might have for damages or other relief arising from the rejection of its Bid or resulting directly or indirectly from the rejection of its Bid based on these grounds or from the disclosure of any pertinent information relating to the reasons for rejection of its Bid.

27. **Subcontractors:** The County reserves the right to approve all Subcontractors for this Contract. If Subcontractors are to be utilized, their names and references must be included within this Bid. Responsibility for the performance of the Contract remains with the main Contractor exclusively. After the commencement of the project, subcontractors may be added or modified during the Contract period only with prior written permission from the County, and only for reasonable cause, as judged by the County.

28. **Interpretation of Plans and Specifications:** No interpretation of the meaning of the plans, specifications, or other Contract documents will be made to any Bidder orally. Every request for interpretation should be in writing addressed to the Purchasing Department. To be given consideration, such requests must be received no later than **March 6, 2019.**

Any and all such interpretations and any supplemental instructions will be in the form of a written addendum. All Addenda issued shall become part of the Bid and Contract documents, and receipt must be acknowledged on the Bid Form, by completion of the applicable information on the Addendum, and submitting it with the Bid. Failure to acknowledge Addenda which have no effect on the competitive nature of the bidding process may be a waiveable deviation at the County's sole discretion.

29. **Conflict of Interest:** The award hereunder is subject to Chapter 112, Florida Statutes. All proposers must disclose with their Proposal, any personal or organizational conflicts of interest pursuant to Section 112.313, Florida Statutes, the name of any officer, director, or agent who is also an employee of the Clay County Board of County Commissioners. Further, all proposers must disclose the name of any Clay County Board of County Commissioners employee who owns, directly or indirectly, an interest of the proposer's firm or any of its branches.

30. **Use of Contract by Other Government Agencies:** At the option of the Bidder, the use of the Contract resulting from this solicitation may be extended to other governmental agencies, including the State of Florida, its agencies, political subdivisions, counties, and cities.

Each governmental agency allowed by the Bidder to use this Contract shall do so independent of any other governmental entity. Each agency shall be responsible for its own purchases and shall be liable only for goods or services ordered, received and accepted. No agency receives any liability by virtue of this bid and subsequent contract award.

31. **Execution of Contract and Notice to Proceed:** The awarded Bidder may be required to sign a written Contract. Said Contract will evidence in written form the agreement between the parties.
32. All payments made under this Bid will be made in accordance with the Local Government Prompt Payment Act; in effect, not later than 45 days from receipt of proper invoice.
33. At the discretion of the Board of County Commissioners any Committee contemplated herein, Vendors submitting proposals may be requested to make oral presentations as part of the evaluation process.

**RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND
PLAYGROUNDS – SCOPE OF SERVICES**
(Provided by Parks and Recreation Department)

SCOPE:

The purpose of this bid invitation:

1. Establish a firm, fixed percentage discount from manufacturer's and/or bidder's current catalog/supply/product information price list for the purchase of various equipment and amenities for parks and playgrounds as requested by the Clay County Division of Parks and Recreation. The County reserves the right to award to multiple bidders.
2. Establish a firm, fixed percentage of manufacturer's and/or bidder's current catalog/supply/product information price list, after applying the above requested discount for purchase, for the installation of various equipment and amenities. It is understood that bidder's current catalog/supply/product information price list are subject to change; however, percentages shall remain fixed. No extra charges or compensation will be allowed for installation above and beyond what has already been presented in your bid. If the bidder offers specialized catalogs, the catalogs must be submitted separately from any other catalog offered by the bidder.
3. This bid is also a means for qualifying vendors for ball park lighting services. Qualifying vendors will be requested to provide pricing on a project by project basis as defined in the method of ordering section of this bid utilizing prices provided in bid response. The qualified vendor(s) providing the lowest responsive quote will be awarded the project.
4. There is no guarantee any purchases will be made after award. Purchase orders will be issued subject to availability of funds.

RESPONSIBILITY:

Bidder shall be responsible for all labor, materials, equipment, supervision, off-loading, storage, and installation, of various equipment and amenities for parks and playground equipment or amenities ordered, unless otherwise specified by the County. The County may elect, in certain circumstances, to purchase only materials and have those materials installed by others (e.g., volunteers, County staff). These items will be shipped to a designated location and off-loaded by the bidder or bidder's representative.

QUALIFICATION OF INSTALLERS:

If a bidder utilizes a sub-contracted installer for any park or playground equipment, a list of sub-contracted installers must be included with their bid. Additionally, the bidder must supply WRITTEN FACTORY/MANUFACTURER CERTIFICATION that its installer, or its sub-contracted installer, is an authorized installer, certified to install various equipment and amenities for parks and playground equipment as required by each manufacturer.

CATALOGS AND MANUFACTURER SUGGESTED RETAIL PRICE (MSRP) LISTS:

Each bidder shall submit with this bid, at no charge, two (2) sets of each current catalog/supply/product information price list as well as current MSRP list for each catalog

submitted. All catalogs and/or MSRP lists shall clearly identify bidder's name, address and telephone number.

The vendor shall supply at no charge, two (2) sets of each then current catalog/supply/product information price list as well as current MSRP list for each catalog submitted upon price changes. At renewal time Vendor may request that new manufacturers be added. County reserves the right to approve or deny this request.

COMPLIANCE WITH LAWS AND CODES:

Bidders must strictly comply with Federal, State and local building and safety codes. Equipment must meet all State and Federal safety regulations. The following publications (issue in effect on date of invitation to bid) shall form a part of this specification:

A. American Society for Testing and Materials (ASTM):

ASTM-F1487 Standards – Methods of testing Playground Equipment for Public Use.

ASTM-F1292 Standards - Method for testing various surfacing materials to determine their "critical height" (the fall height below which a life threatening head injury would not be expected to occur)

Copies may be obtained from the - American Society for Testing and Materials
100 Barr Harbor Drive
West Conshohocken, PA 19428

B. Consumer Product Safety Commission (CPSC) – printed Handbook for Public Playground Safety.

Copies may be obtained from the - US Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
(301) 504-7923

C. National Playground Safety Institute (NPSI) – identification of 12 leading causes of injuries on playgrounds.

Copies may be obtained from the - National Recreation and Park Association
22377 Belmont Ridge Road
Ashburn, VA 20148-4150
(703) 858-0784

D. Americans with Disabilities Act (ADA) Regulations for Title III, Appendix A, Standards for Accessible Design, issued by the Department of Justice.

Copies may be obtained by calling: (800) 514-0301

Bidders certify that all products (materials, equipment, processes, age appropriate signage, or other items supplied in response to this bid) contained in its bid meet all Federal and State requirements, **Upon completion of installation of play equipment and/or playground surfacing, bidder shall furnish to the County a certificate so stating the equipment /surfacing and its installation meet all Federal and State requirements as outlined in the above publications.**

Bidders further certify that if the product(s) delivered and/or installed are subsequently found to be deficient in any of the aforementioned requirements in effect on date of delivery, all costs necessary to bring the product(s) and installation into compliance shall be borne by the bidder.

INVOICING:

Invoices may be issued once equipment, materials, and supplies are delivered and/or installed to the county's satisfaction. At a minimum, invoices must include: Purchase Order Number, Item Number and Description, Date of Shipment, Quantity Ordered, Unit Price, Unit of Measure, and a total for all purchases. Standard payment terms are Net 45 days per the Local Government Prompt Payment Act.

TERMS OF CONTRACT:

The term of bid award for various equipment and amenities for parks and playgrounds will be three (3) years, with two (2) one (1) year renewal options. Discounts from this solicitation shall prevail for the full duration of the contract and including subsequent extensions. County reserves the right to use other available bids or contracts when in the best interest of the County.

METHOD OF ORDERING:

The County may generate a Request for Quotation, on an "as needed" basis, for park and playground equipment and/or ball field lighting together with a request for additional services required to complete that project (see attached Quote sample sheet). The County reserves the right to send such Request for Quotation to any or all awarded bidders. The Request for Quotation can define the project exactly or the Request for Quotation can describe a desired end result, allowing the bidder to design the park or playground site.

After generating a Request for Quotation for a project, and before bidder's submission of its quotation in response to the Request for Quotation, the County may require requested bidder (s) to attend a site visit with County personnel to familiarize the bidder(s) with the site and determine additional services that may be required to complete the project. Bidders will be responsible for the accuracy of all fixed measurements.

The bidder's quotation in response to the Request for Quotation must contain each of the following:

- A detailed breakdown of the cost for the entire project. Descriptions of additional services related to the project, together with their price, shall also be listed.
- Include Catalog Name, Number and associated discount. When quoting projects where freight would be charged, those costs must be included in quote so freight charges can appear on the purchase order. Freight charges for equipment must be pre-paid and added to the invoice.
- Names of any and all subcontractors on the project. It is understood the bidder remains responsible for project completion and acceptance by the County. The County reserves the right to reject any quotation in response to a Request for Quotation if said quotation names a subcontractor who has, in the sole opinion of the County, previously failed in the proper performance of an award or failed to deliver on time contracts of a similar nature, or who is not in a position to perform properly under this award.
- Project Completion Date.
- Include an updated catalog, if needed and updated MSRP lists for the park and play equipment specifically quoted.

The County will generate purchase orders as a result of approved “Request for Quotations” submitted, at the sole discretion of the County. The County reserves the right to not award to any, or to use other available bids or contracts when in the best interest of the County.

PROMOTIONAL PRICING:

During the contract period, bidders shall extend any pricing offered on a “promotional” basis from the manufacturer to the county. It will be the bidder’s responsibility to monitor said items and report any that are or will be offered at lower prices.

SUPERVISION:

A bidder’s job supervisor/representative shall be on the work site at all times and be thoroughly knowledgeable of the materials, job requirements, plans, specifications and installation functions. Contractors shall be responsible for the appearance of all working personnel assigned to the project (clean and appropriately dressed at all times).

JOB COMPLETION:

Bidder/installer shall be responsible for all materials received and signed for from date of order to completion of job installation.

Bidder/installer shall be responsible for cleanup and removal of all debris resulting in job completion.

Bidder/installer shall be responsible for restoring the work site to its original condition at the completion of the project. This shall include re-sodding of the area affected by their work with sod which is of the same variety and quality as the surrounding sod. Where no sod exists prior to installation, the contractor shall restore grade to a level consistent with the surrounding grade.

RESPONSIBILITY FOR DAMAGES AND PRESERVATION OF PROPERTY:

The bidder shall use due care to avoid damaging all property associated with, adjacent to, or in any way affected by the work being performed. The bidder shall be responsible for the protection of all buildings, structures, and utilities that are underground, above ground, or on the surface from their operations that may be hazardous and/or damaging to said facilities. Bidder shall leave work site in a neat and orderly fashion at the end of each work day. Any damage occurring to such items by bidder shall be immediately repaired or replaced to a condition at least equal to that which existed prior to the damage. All costs incurred for repair or replacement shall be borne by the successful bidder. Any damages not repaired or replaced by the bidder within ten (10) calendar days from notification will be fixed by the County or its contractor and the cost shall be paid by the bidder or deducted from their invoice.

VIOLATIONS/DEFAULT:

In the event the awarded bidder(s) should violate any provisions of this bid, such bidder will be given written notice stating the deficiencies and given ten (10) days to correct deficiencies found. The County reserves the right to terminate any bid, contract, or purchase order at any time due to any violation.

In the event the awarded bidder(s) should breach this contract, the County reserves the right to seek all remedies in law and/or in equity. Failure of an awarded bidder to adhere to completion dates defined by bidder and County may result in no further purchase being made with such bidder under this Bid.

BID FORM
RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND
PLAYGROUNDS

Bidder: _____

Address: _____

City, State and Zip: _____

Phone: _____ Email: _____

Contact Name(s): _____

Signature of Bidder

*Bidder can provide additional price information related to Ball Field Lighting

MANUFACTURER CATALOGS:

Manufacturer: _____

Fixed Percentage Discount off MSRP: _____

Installation (Fixed Percentage of cost after discounts of equipment): _____

Manufacturer: _____

Fixed Percentage Discount off MSRP: _____

Installation (Fixed Percentage of cost after discounts of equipment): _____

Manufacturer: _____

Fixed Percentage Discount off MSRP: _____

Installation (Fixed Percentage of cost after discounts of equipment): _____

Manufacturer: _____

Fixed Percentage Discount off MSRP: _____

Installation (Fixed Percentage of cost after discounts of equipment): _____

(MULTIPLE SHEETS CAN BE USED)

RFP #18-19-2, Various Equipment And Amenities For Parks And Playgrounds

SUB-CONTRACTOR EQUIPMENT INSTALLERS:

Business Name: _____

Address: _____

Phone Number: _____

Contact Name: _____

Business Name: _____

Address: _____

Phone Number: _____

Contact Name: _____

Business Name: _____

Address: _____

Phone Number: _____

Contact Name: _____

Note: Upon request bidders must supply WRITTEN CERTIFICATION (s) naming bidder, and/or each of its sub-contractor installer(s), as an authorized installer certified to install park and playground equipment as required by each manufacturer. Installers shall have a Certified National Playground Safety Inspector (NPSI) present during installations and repairs.

(MULTIPLE SHEETS CAN BE USED)

WARRANTY INFORMATION FORM

MAKE AND MODEL OF EQUIPMENT PROPOSED: _____

Is there a warranty on the equipment proposed?

Yes

No

Does the warranty apply to **ALL** components or only part? (State Explicitly)

Parts Warranty Period:_____

Service Warranty Period:_____

Nearest source for parts and/or service center (s):

Name, address and phone number of the authorized service center (s):

1) _____

2) _____

Name, address and phone number of the authority issuing this warranty: (Manufacturer, Distributor, etc.)

COPY OF COMPLETE WARRANTY STATEMENT IS SUBMITTED HEREWITH:

Yes

No

Name of Bidder: _____

Signature _____

Title _____

Phone Number _____

(MULTIPLE SHEETS CAN BE USED)

Example Request for Quotation
Various Equipment and Amenities for Parks and Playgrounds

Description of Project: _____

A site plan (not to scale), along with drawing of proposed amenities, is attached. A mandatory site visit is scheduled for _____ at _____.

Price Quotation:

Manufacturer	Item and Page Number	Quantity	MSRP Unit Price	Contract Discount	Extended Price

*When quoting projects where freight would be charged, include those costs so freight charges can appear on the purchase order. Freight charges for equipment must be pre-paid and added to the invoice.

Additional Services Required:

Description	Quantity	Unit Price	Extended Price

Total: \$ _____

List any Subcontractors:

1. Name _____
2. Address _____
3. Telephone Number _____
4. Contact Name _____
5. Designated Work _____
6. Subcontractor Cost _____

**RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND
PLAYGROUNDS**

CORPORATE DETAIL

Failure to complete all fields may result in your bid being rejected as non-responsive.

COMPANY NAME: _____

ADDRESS: _____

TELEPHONE: _____

FAX #: _____

E-MAIL: _____

Name of Person submitting Bid: _____

Title: _____

Signature: _____

Date: _____

ADDENDA ACKNOWLEDGMENT:

Bidder acknowledges receipt of the following addendum:

Addendum No. _____ Date: _____ Acknowledged by: _____

Addendum No. _____ Date: _____ Acknowledged by: _____

Addendum No. _____ Date: _____ Acknowledged by: _____

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Form

RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS

- (1) The prospective Vendor, _____, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal Department or Agency.
- (2) Where the Vendor is unable to certify to the above statement, the prospective Vendor shall attach an explanation to this form.

Vendor:

By: _____
Signature

Name and Title

Street Address

City, State, Zip

Date

Scrutinized Companies Certification

[Clay County **RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS**]

Name of Company:¹ _____

In compliance with subsection (5) of Section 287.135(5), Florida Statutes (the Statute), the undersigned hereby certifies that the company named above is not participating in a boycott of Israel as defined in subsection (1) of the Statute; is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as referred to in subsection (2) of the Statute; and does not have business operations in Cuba or Syria as defined in subsection (1) of the Statute.

Insert Name of Company:

(Seal)

By: _____

Its _____

¹ "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit.

“NO BID” Statement

RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS

If your company does not intend to bid on this procurement, please complete and return this form prior to the date shown for receipt of Bids to: Clay County Purchasing Department, Attn: Donna Fish, 477 Houston Street, Green Cove Springs, FL 32043

We, the undersigned, decline to bid on the above referenced invitation to bid for the following reasons:

- ☐ Specifications are too restrictive (please explain below or attach separately)
- ☐ Unable to meet specifications
- ☐ Specifications were unclear (please explain below or attach separately)
- ☐ Insufficient time to respond
- ☐ We do not offer this product or service
- ☐ Our schedule would not permit us to perform at this time
- ☐ Unable to meet bond requirements
- ☐ Other (please explain below or attach separately)

Remarks:

Company Name: _____ Telephone #: _____

Signature: _____ Fax #: _____

Print Name: _____ Title: _____

Address: _____

City: _____

Zip: _____

CHAPTER 8: PROCEDURES FOR PUBLIC BID OPENINGS

(A) **Purpose:** The purpose of this chapter is to specify procedures for the submittal, receipt, opening and recording of all formal bids required by all of the various laws, ordinances, and other procedures and manuals governing the solicitation and awarding of public bids in Clay County, Florida, including but not limited to:

- a. Section 336.44, Florida Statutes (2001).
- b. Applicable Provisions of Clay County Code.
- c. Florida Department of Transportation Standard Specifications, most recent edition.

(B) **Time of Opening:** All bids shall be submitted to the Purchasing department, 4th Floor, Clay County Administration Building, 477 Houston Street, Green Cove Springs, Florida, which shall record receipt thereof by date and time on the bid envelope. Upon receipt, the Purchasing department will maintain custody and control of all bid submittals until after they have been opened. The deadline for a particular bid submittal shall be 4:00 P.M., of the Monday immediately preceding the Tuesday upon which the bid is to be opened. No bid shall be opened unless and until proof by publisher's affidavit of publication of the bid solicitation is received and filed by the Purchasing department. Bidders and the public are welcomed to attend the opening and all subsequent committee and commission meetings related to the bids.

(C) **Form of Bid Submittal:** All bids shall be submitted in triplicate, (and if applicable only on the forms provided by the County or its staff). Each bid and its accompanying materials shall be submitted in a single, sealed and opaque envelope. The following items shall be prominently marked on the cover of the envelope by the party making the submittal prior thereto:

- a. The number assigned to the particular bid solicitation.
- b. The title of the bid exactly as it appeared in the published solicitation.
- c. The date of the bid opening.

(D) **Bid Receipt Procedure:** The County Manager shall, in cooperation with his or her Department heads and the Purchasing department, assign a specific and discrete number and title to each bid solicitation, which shall be contained in the Request for Bids, the newspaper publication, specifications and the Bid Form thereof. Three copies of each request for bid shall be submitted to the Purchasing department for distribution as provided in Section F hereof, and the "Request For Bids" shall be signed prior to publication.

(E) **Place of Opening:** All bids properly submitted shall be opened in a public location so designated in the bid solicitation.

(F) **Distribution of Copies:** Upon the opening of a bid, one copy shall be distributed to the head of the originating department. Purchasing shall submit to the Finance committee of the Board a tabulated list of all bidders and their bids, including bid number, name, staff assigned, a recommendation to include but not be limited to the lowest responsive and responsible bid, or in a proper circumstance the best bid, budget information and alternatives. All staff assigned to evaluate bid and RFP responses shall do so observing all requirements of the Sunshine Law and

in meetings noticed at least 72 hours in advance thereof. The Purchasing department shall serve as the permanent record holder for the County Manager.

(G) **Committee Review, Report and Recommendations:** Bids shall be reviewed by the Board's Finance committee following the bid opening. The Committee should, in the absence of unusual circumstances, report its recommendation to the Board at the Board's next regularly scheduled meeting, which shall include a tabulated list of all bidders and their bids. In all events, the County Manager shall cause to be spread upon the minutes of the regular meeting of the Board next following the opening of a particular bid, a list of all bidders and their bids. Upon being awarded a bid, and if a contract is entered into with the successful bidder then the County's Standard Addendum and IRS Form W-9, Request for Taxpayer Identification and Certification must be completed.

(H) **Ineligible Bid:** Any bid that does not meet the foregoing requirements for form, time of submittal, number of copies or the specifications advertised will be rejected and the reasons stated therefor; provided that the Purchasing department shall reject and return unopened all bids which do not meet the foregoing requirements for time of submittal, or envelope markings. Bids that do not meet requirements for form will be rejected and declared "No Bid". The Board reserves the power to reject all bids and in its discretion to re-advertise the solicitation.

(I) **Bid Withdrawal Period:** Any bid submitted requires a five (5) percent bond unless waived by the Board prior to solicitation, which cannot be withdrawn for a period of 30 days subsequent to the date of the bid opening, notice of which shall be incorporated in all requests for bids. As used herein, the term bond shall include cashier or certified checks payable to the County. All such checks shall be held by the Finance department for safekeeping immediately upon acceptance of the bid (but not deposited). The Finance department is hereby authorized to return each bond to the submitting party, as soon as practicable, upon written request to the Finance department, but only after a bid and contract have been awarded and executed between the County and the successful bidder for a particular project, or in the event that all bids have been rejected by the Board, or in the event the time provided that the bid shall remain in effect shall have expired and the bid submitter requests its return in writing.

(1) Vendors bidding on SHIP rehabilitation projects are exempt from the bid bond requirements delineated in 8(I) above or as may be otherwise stated elsewhere in this policy document.

(2) Vendors bidding on commodities price contracts, or any other type of contract that does not commit the Board to an actual exchange transaction (purchase) but rather seeks only a fixed unit price commitment from a vendor in the event a future purchase decision is made, shall be exempt from the bid bond requirements delineated in 8(I) above or as may be otherwise stated elsewhere in this policy document.

(J) **Bid Addenda:** All addenda distributed subsequent to the initial distribution of specifications shall be sent by certified mail/return receipt requested, said return receipt to be returned to the Purchasing department identified by bid number. Prior to mailing, a copy of each addendum shall be received by the Purchasing department, provided that no addendum shall be mailed later than five (5) working days prior to the scheduled bid opening date.

(K) **Bid Tabulation Form:** The bid Tabulation Form used at bid openings shall include a place thereon for three witnesses to sign. This procedure will eliminate the need for signing each individual bid at the time of opening, thus requiring the three witnesses to sign only once for each bid number submitted.

(L) **Authority to Delay Bid Openings:** The County Manager is hereby authorized, without seeking prior approval of the Board in any particular case, to order a delay of any bid opening from its scheduled date and time to a time certain on the agenda of the next regularly scheduled meeting of the Board, or such special meeting called for such purpose. The delay may be ordered at any time prior to the time of the scheduled opening, provided that such order be in writing, addressed and delivered to the Purchasing department with a copy delivered to the County Manager, and that copies thereof be mailed by certified mail, return receipt requested to all responding bidders as soon thereafter as is reasonably practicable. Upon receipt of the order, the Purchasing department shall immediately record the date and time thereof. The Purchasing department shall continue to accept sealed bids up until the applicable deadline. At the date and time originally scheduled for the bid opening, the Purchasing department shall announce the delay order to all in attendance and shall continue to maintain in its custody all properly submitted sealed bids until further order of the Board. At the time certain scheduled before the Board, the County Manager shall present his reason or reasons for the delay order and his recommendation for disposition of bids submitted. The Board may order the bids to be opened then and there, or at some other time and date certain; it may cancel the bid and order the return of all bids unopened; it may order a further delay of the bid opening; or it may make any other order appropriate to the circumstances. If the bids are ultimately opened, they shall be reviewed as provided elsewhere herein. If a delay occurs as provided herein, then the 30 day withdrawal period as provided in 8(I) shall commence upon the date of the actual bid opening, provided such date is not more than 60 days subsequent to the originally scheduled date. No delay shall be ordered beyond such 60 day period, unless the parties submitting timely bids consent to such delay in writing. In no event is the County Manager authorized to extend the deadline for bid submittals for any particular project, only the bid opening date.

(M) **Contractor's Insurance Requirement:**

1. Any Contractor submitting a bid for any public works project must include, within its initial bid response, proof of the following insurance, in effect continuously from the date of submittal through the 60 days subsequent to the scheduled bid opening date:

a. Commercial General Liability

1.	General Aggregate	\$1,000,000
2.	Products and Completed Operations Aggregate	\$1,000,000
3.	Personal and Advertising Injury	\$1,000,000
4.	Each Occurrence	\$1,000,000
5.	Fire Damage (any one fire)	\$ 50,000
6.	Medical Expense (any one person)	\$ 5,000

b. Automobile Liability

1. Any automobile-Combined bodily injury/property damage, \$1,000,000 with minimum limits for all additional coverage as required by Florida law

c. Workers Compensation/Employers Liability

1. Workers Compensation

statutory limits

2. Employers Liability

a.	Each Accident	\$ 100,000
b.	Disease-Policy	\$ 500,000
c.	Disease-Each Employee	\$ 100,000

d. Professional Liability

1. When required by contract-per occurrence

\$1,000,000

2. Upon being awarded the bid, the contractor must provide proof that such insurance will be in effect from the date of commencement of the project. The contractor will maintain insurance coverage at the above-prescribed levels through the date of completion of the project and that coverage will include all independent contractors and subcontractors. Either prior to or simultaneously with the execution of the contract, the successful bidder must deliver certificates of insurance for the required insurance coverages to the County naming "Clay County, a political subdivision of the State of Florida; The Board of County Commissioners, Clay County, Florida; and all public agencies of Clay County, as their interests may appear" as "Additional Insureds." Said certificates of insurance shall also include a thirty day prior written notice of cancellation, modification or non-renewal to be provided to the County.

3. The Board reserves the right to waive, raise or lower the minimum coverages required for particular projects prior to bid solicitation by affirmative action. The Board will not waive any defects in a bid submittal pertaining to matters under this subsection.

(N) **Bid Awards and Protests:**

1. Both the **INSTRUCTIONS** and the **PUBLISHED NOTICE** for every sealed bid solicitation shall include conspicuously the following statements:

FOLLOWING THE BID OPENING AND TABULATION, A "NOTICE OF INTENT TO AWARD BID" OR A "NOTICE OF REJECTION OF ALL BIDS" WILL BE POSTED ON THE INTERNET AT: [insert bid notice web address¹]. THIS WEBPAGE CAN ALSO BE ACCESSED FROM THE HOMEPAGE OF THE COUNTY'S WEBSITE AT: [insert County's homepage address²] BY [insert suitable directions³]. NO OTHER NOTICE WILL BE POSTED.

¹ As of the date on which this Purchasing Policy was adopted, the bid notice web address was:
<http://www.claycountygov.com/departments/purchasing-division/bcc-bid-tabs-current-bids-intent-bids-rejection-bids>

² As of the date on which this Purchasing Policy was adopted, the County's homepage address was:
<http://www.claycountygov.com/>.

³ As of the date on which this Purchasing Policy was adopted, suitable directions would be: "FOLLOWING THE "Notice of Intent Bids" LINK UNDER THE "Business" ROLLOVER BUTTON".

PROSPECTIVE BIDDERS ARE NOTIFIED THAT THE FAILURE TO INCLUDE WITHIN THE SEALED BID ENVELOPE A PROPER BID BOND OR OTHER SECURITY APPROVED UNDER THE COUNTY'S PURCHASING POLICY, IF REQUIRED FOR THIS SOLICITATION, OR THE FAILURE TO FILE A WRITTEN NOTICE OF PROTEST AND TO FILE A WRITTEN PETITION INITIATING A FORMAL PROTEST PROCEEDING WITHIN THE TIMES AND IN THE MANNER PRESCRIBED IN SECTION 8.N. OF SAID POLICY, SHALL CONSTITUTE A WAIVER OF THE RIGHT TO PROTEST THE BID SOLICITATION, ANY ADDENDUM THERETO, OR THE BID DECISION, AS APPLICABLE, AND TO INITIATE A FORMAL PROTEST PROCEEDING UNDER SAID POLICY. THE COUNTY'S PURCHASING POLICY CAN BE VIEWED AT THE COUNTY'S WEBSITE BY FOLLOWING THE APPROPRIATE LINKS FROM THE HOMEPAGE ADDRESS SET FORTH ABOVE.

IF A PROSPECTIVE BIDDER IS IN DOUBT WHETHER THIS SOLICITATION REQUIRES A BID BOND, SUCH PROSPECTIVE BIDDER IS SOLELY RESPONSIBLE FOR MAKING APPROPRIATE INQUIRY.

2. Unless otherwise expressly directed by the Board in its decision on a bid award, immediately following such decision the County Manager shall cause a "Notice of Intent to Award Bid" or a "Notice of Rejection of All Bids" to be posted on the County's website, with the time and date of posting appearing thereon. Notice shall not be posted elsewhere. The notice shall be posted in portable document format or other secure format.
3. The failure on the part of a prospective bidder to include within the sealed bid envelope a proper bid bond or other security approved under this policy, if required for the particular bid solicitation, or the failure by a prospective bidder to file a written notice of protest and to file a written petition initiating a formal protest proceeding within the times and in the manner prescribed in this section shall constitute a waiver of the prospective bidder's right to protest the bid solicitation, any addendum thereto, the Board's bid decision, as applicable, and to initiate a formal protest proceeding hereunder.
4. A prospective bidder is solely responsible for determining whether a particular bid solicitation requires a bid bond, and for resolving any doubt by making appropriate inquiry.
5. The County Manager shall cause a copy of this policy to be posted on the County's website in portable document format or other secure format. The County Manager shall cause to be established conspicuous and easy-to-follow links to the policy from the homepage.
6. Any person who is adversely affected by a bid solicitation, by any addendum thereto, or by a bid decision may file with the County Manager a written notice of protest no later than 4:30 p.m. on the third business day immediately following the date notice is published, with respect to a bid solicitation; no later than 4:30 p.m. on the third business day immediately following the date of issuance, with respect to a bid addendum; and within 72 hours after the posting of the notice, exclusive of hours occurring during days that are other than business days, with respect to a bid decision.

7. A formal protest proceeding shall be deemed commenced upon the timely filing of a written petition initiating the same. A written petition initiating a formal protest proceeding must be filed with the County Manager no later than 4:30 p.m. on the tenth calendar day immediately following the date on which the written notice of protest was filed; provided, if the tenth calendar day is not a business day, then the petition must be filed no later than 4:30 p.m. on the first business day immediately following said tenth calendar day. The petition must set forth with particularity the facts and law upon which the protest is based. The petition must conform substantially with the requirements for petitions set forth in Rule 28-106.201, Florida Administrative Code. References in this section to a petition shall mean a written petition initiating a formal protest proceeding filed in accordance with this subsection.

8. Any protest of a bid solicitation or bid addendum shall pertain exclusively to the terms, conditions, and specifications contained in a bid solicitation or bid addendum, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract.

9. Upon receipt of a formal written notice of protest that has been timely filed, the County Manager shall suspend the bid solicitation or bid award process until the subject of the protest is resolved by final action as specified in this section, unless the County Manager sets forth in writing particular facts and circumstances which require the continuance of the solicitation or award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare. Such suspension shall be lifted immediately in the event the protesting party shall have failed to timely file a petition.

10. Intervenors shall be permitted to participate in the formal protest proceeding in accordance with the procedures governing intervenor practice set forth in Rule Chapter 28-106, Florida Administrative Code, and shall be subject to all limitations provided therein applicable to intervenors.

11. In his or her discretion, the County Manager may provide an opportunity to resolve the protest by mutual agreement between the County Manager and the protesting party within 7 calendar days after receipt of a timely petition. Such agreement must be reduced to writing, signed by the County Manager and the protesting party or such party's authorized agent, and submitted to the Board at the earliest opportunity. The agreement shall not be deemed effective unless ratified by the Board. If the Board shall fail to ratify the agreement, then the protest shall proceed to resolution as hereinafter provided.

12. Within 10 business days following the timely filing of a petition, or, if the Board shall have considered but failed to ratify an agreement submitted to it under subsection 11, then within 10 business days thereafter, a hearing shall be conducted pursuant to subsection 13 before a hearing officer, who shall be the County Manager or his or her designee. The County Manager may designate any department head as the hearing officer; provided, a department head who is substantially involved in or connected with the bid solicitation or bid award process shall be deemed disqualified from serving as the hearing officer, unless such involvement or connection is purely ministerial in nature.

13. All hearings shall be conducted pursuant to written notice to the protesting party, the County Attorney's Office and all intervenors by the hearing officer specifying the time, date and place of the hearing. Particular rules and procedures governing each such hearing are as follows:

a. The audio thereof shall be recorded electronically.

b. Prior to the hearing only, motion practice may be permitted by the hearing officer in his or her discretion in accordance with the rules governing the same set forth in Rule Chapter 28-106, Florida Administrative Code. All motions shall be ruled upon prior to or at the start of the hearing, except that rulings on motions in limine may be deferred to an appropriate time during or after the hearing.

c. Prior to the hearing, the protesting party, the County and all intervenors must confer and endeavor to stipulate to as many relevant and undisputed facts upon which the decision is to be based as may be practicable. Such stipulation must also identify those issues of material fact, if any, that remain in dispute. The stipulation must be reduced to a writing signed by or on behalf of the protesting party, the County and all intervenors, and be submitted to the hearing officer at least two business days prior to the hearing. The stipulation may include an appendix comprising documents that shall be deemed admitted and considered as evidence for purposes of the hearing, or referring to tangible items deemed admitted and considered as evidence for purposes of the hearing, which items shall either be presented at the hearing or, if such presentation is impractical, submitted to the hearing officer by graphic, descriptive, representational, photographic, videotape or similar medium properly depicting or characterizing the items.

d. The protesting party and all intervenors shall have the right to appear before the hearing officer at the hearing in proper person or through counsel and, as to those issues of material fact, if any, that remain in dispute, as identified in the stipulation, to present relevant testimonial, documentary and tangible evidence, and to be heard on the substantive issues bearing on the protest. The County shall be deemed a party to the proceeding, and the County Attorney or any assistant county attorney may participate in the protest proceeding, appear before the hearing officer, present evidence and be heard on behalf of the County.

e. All witnesses shall be placed under oath by the hearing officer prior to testifying, and shall be subject to cross-examination by any hearing participant.

f. Hearsay evidence shall be admissible unless the hearing officer shall determine the same to be redundant, unreliable or prejudicial.

g. At the hearing any hearing participant may offer appropriate argument and summation, and submit a written brief and a proposed order, but only after the conclusion of the evidentiary portion of the hearing, if any.

h. Immediately following the hearing, the County Manager shall cause a written transcript of all testimonial evidence introduced at the hearing to be prepared expeditiously based upon the audio recording, and shall provide copies of the same to all of the hearing participants.

i. Within 7 business days following the hearing, the hearing officer shall submit a recommended order to the County Manager and serve copies on all hearing participants; provided, if the County Manager is the hearing officer, then within 7 business days following the hearing, the County Manager shall issue a recommended order and serve copies on all hearing participants. The recommended order shall contain findings of fact and, based upon such facts, a disposition of the protest; provided, no finding of fact may be predicated solely upon the basis of hearsay.

j. The recommended order shall thereafter be submitted to the Board along with the transcript of the hearing testimony and the entire written and tangible record of the protest proceedings at the earliest opportunity to be considered at a time certain, with notice thereof served upon the hearing participants. Each of the hearing participants shall be allowed 3 minutes to address the Board regarding the recommended order, unless the Chairman in his or her discretion shall allow additional time. If a hearing participant intends to challenge any finding of fact in a recommended order that was based upon testimonial evidence, such participant shall be allowed 2 additional minutes for such purpose, and may direct the attention of the Board members to any portion of the transcript relevant to the challenge. The other hearing participants shall each have the right to offer argument in rebuttal to the challenge, and to direct the attention of the Board members to any portion of the transcript relevant to the rebuttal. No testimony or other evidence beyond the record and the transcript shall be presented to the Board. Thereafter the Board shall render its decision on the protest. In so doing the Board shall be bound by the findings of fact in the recommended order that are based upon testimonial evidence, except those for which it upholds a challenge. A challenge shall be upheld only if the finding of fact is not supported by competent, substantial evidence in the record or in the transcript. Otherwise, the Board shall not be bound by any of the provisions of the recommended order. The decision of the Board shall be reduced to a written order signed by the Chairman, and shall constitute final action of the County on the protest.

k. The date, type and substance of all ex parte communications between any Board member and a hearing participant, including counsel therefor or any agent thereof, and between any Board member and third party, must be publicly disclosed by the Board member prior to the rendering of the Board's decision. All such communications that are written or received electronically must be filed for the record, and copies thereof provided to each Board member and hearing participant.

14. All proceedings before the hearing officer shall be informal, and customary rules of evidence shall be relaxed. In all respects both the hearing officer and the Board shall observe the requirements of procedural and substantive due process that are the minimum necessary for accomplishing a fair, just and expeditious resolution of the protest.

15. Ex parte communications between a hearing participant and the hearing officer are forbidden. The hearing officer may take such steps as he or she may deem just and appropriate to prevent or sanction attempted ex parte communications, including promptly disclosing the attempted communication, or requiring the offending hearing participant to disclose promptly the attempted communication, to the other hearing participants. Where necessary, the hearing officer may recuse himself or herself, and the subsequently designated hearing officer may order the offending participant to pay for all or any portion of the costs incurred by the County and any other hearing participant strictly as a consequence of the ex parte communication or attempted ex parte communication, else be excluded from further participation. Neither the County Attorney nor any assistant county attorney shall be subject to this subsection or prohibited from engaging in ex parte communications with the hearing officer.

16. The purpose of this policy is to promote fairness and public confidence in the competitive bidding process. To further such end, and except as otherwise specifically provided herein, the substantive law governing the resolution of bid protests found in the decisions of the Florida appellate courts, as well as any statutes or agency rules that may be applicable to the particular bid solicitation, shall guide the hearing officer and the Board in rendering a decision on a bid protest under this section. The significant principles of law governing the bid protest and the resolution thereof, which shall prevail to the extent not otherwise in conflict with any governing statutes or agency rules, are as follows:

- a. The burden is on the party protesting the award of the bid to establish a ground for invalidating the award.
- b. The standard of proof for the protest proceeding shall be whether the proposed award was clearly erroneous, contrary to competition, arbitrary, or capricious.
- c. The proposed award shall be deemed arbitrary or capricious if it is contrary in a material way to any governing statutes, the County's rules or policies, or the bid or proposal instructions or specifications.
- d. The scope of the inquiry is limited initially to whether the proposed award is improper under the foregoing standard of proof. If and only if the hearing officer first determines on the basis of competent and substantial evidence that the proposed award is improper, then the hearing officer may recommend, in accordance with the law and this policy, an alternate disposition for the proposed award. Such disposition may include, but shall not be limited to, rejecting all bids, or awarding all or a portion of the bid to the protesting party.
- e. A bid protest proceeding may not serve as a vehicle for the Board to revisit the proposed award absent a determination of impropriety as set forth above.

17. By written agreement amongst the protesting party, the County, and all then-existing intervenors, any provision of this section pertaining to the procedures for resolving a protest for which a petition has been timely filed may be modified or waived so long as such modification

or waiver shall not hinder or thwart the proper and expeditious resolution of the protest, or otherwise operate to undermine the salutary purposes of competitive, public bidding.

18. Only to the extent necessary to avoid a miscarriage of justice or to prevent a manifest violation of a hearing participant's procedural or substantive due process rights, a hearing officer may modify or suspend the applicability of any of the provisions or requirements of this section in the course of conducting a protest proceeding hereunder; provided, a hearing officer may not modify or suspend any of the provisions or requirements of subsections 3, 4, 6, 7, 8, 16, 20, 21 and 22 hereof.

19. Except and to the extent specifically provided in this section, and except and to the extent otherwise specified provided by written agreement amongst the protesting party, the County, and all then-existing intervenors, no provisions of Rule Chapter 28-106, Florida Administrative Code, shall be deemed applicable to the resolution of protests under this section.

20. For purposes of this section, the filing with the County Manager of a written notice of protest or of a written petition initiating a formal protest proceeding shall be deemed accomplished only when the original written notice or original written petition has been physically received by the County Manager or his or her designee. A notice or petition shall be deemed original only if it bears the original signature of the protesting party or such party's authorized agent. No notice or petition may be filed by facsimile transmission or by e-mail, and any notice or petition received in such manner shall be deemed unfiled and ineffective. The use of an overnight delivery service or of the United States Postal Service to file a notice or petition shall be entirely at the risk of the person submitting the same, and any such notice or petition so received after the applicable deadline shall be deemed untimely.

21. For purposes of this section, a business day shall mean any 24-hour day that is not a Saturday, a Sunday, or a holiday observed by the County.

22. For purposes of this section, counsel shall mean an attorney who is a member of the Florida Bar in good standing.

23. For purposes of this section, all notices of protest and petitions initiating formal protest proceedings, and all stipulations, briefs, proposed findings of fact, written motions and proposed orders submitted to a hearing officer shall be on white, opaque paper 8 ½ by 11 inches in size. The pages of all such documents shall have margins on all sides of not less than 1 inch; shall be in Times New Roman or Courier New font no smaller than 12 in size, including footnotes and endnotes; shall have standard double-spacing between lines, excluding quotations, footnotes and endnotes; and shall be numbered at the bottom. All quotations shall be indented. Briefs shall not exceed 15 pages in length, and may not include any appendices. A digital copy of all written stipulations, briefs, proposed findings of fact, written motions and proposed orders submitted to the hearing officer must be simultaneously provided to the hearing officer in Word format, version 2000 or later, on compact disc or 3 ½" diskette.

24. For purposes of this section, a hearing participant shall mean and include the protesting party, the County and any intervenor.

25. This section shall be construed and implemented so as to secure the just, speedy, and inexpensive resolution of bid protests.

(O) **UTILITY RELOCATION AGREEMENTS:** Prior to soliciting bids for right of way improvements and other public works projects that require the removal or relocation of utilities, agreements with the affected utilities must be entered into providing for the terms, scheduling and conditions of such relocation and removal. The County Manager may develop and maintain such form of agreement as may be appropriate for accomplishing the requirements of this section. *(Resolution No. 09/10-65)*

(P) **NO-CONTACT RULE:** *(Resolution No. 09/10-81)*

1. As used in this section and unless the context clearly requires otherwise, the following terms and phrases shall have the meanings herein ascribed:

a. Contacting shall mean communicating or attempting to communicate by any means, whether orally, telephonically, electronically or in writing.

b. Bidder shall mean any person or entity submitting a response to a bid solicitation, and shall include all owners, shareholders, principals, officers, employees and agents thereof.

c. Bid shall mean any bid, request for proposals and request for qualifications.

d. Solicitation period shall mean the time between the publication of the notice of the bid and the opening of the bid.

e. Evaluation period shall mean the time between the opening of the bid and the award thereof by the Board of County Commissioners.

2. The instructions for all solicitations of bids to be submitted under seal shall include provisions prohibiting bidders from contacting (i) any member of the Board of County Commissioners, the County Manager or any County employee or agent regarding the solicitation in any respect during the solicitation period, and (ii) the County Manager or any County employee or agent regarding the solicitation in any respect during the evaluation period. The violation of this rule shall result in the automatic disqualification of any response to a bid solicitation submitted by the violator, and the foregoing instructions shall so state.

3. The no-contact rule set forth in subsection 2 shall not apply to inquiries submitted to County employees or agents in the manner specifically provided in the bid solicitation package regarding the distribution thereof, or to communications seeking clarification regarding instructions or specifications submitted to County employees or agents in the manner specifically provided in the bid solicitation package, or to pre-bid conferences provided for in the bid solicitation package, or to formal presentations by finalists to the Board of County Commissioners or any committee thereof specifically contemplated in the bid solicitation package.

4. The purpose of the no-contact rule set forth in subsection 2 is to prevent any one bidder from gaining an advantage over other bidders through lobbying or otherwise attempting to influence the procurement decision through discussions or the presentation of information or materials outside of the process contemplated in the bid solicitation package and this purchasing policy, and also to ensure that the dissemination of information from the County entity to bidders regarding the bid solicitation is equal and uniform.

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the
requester. Do not
send to the IRS.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ► _____	
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>	
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code		
7 List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number										
				-						
or										
Employer identification number										
				-						

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. Individual. Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. Sole proprietor or single-member LLC. Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. Partnership, LLC that is not a single-member LLC, C corporation, or S corporation. Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. Other entities. Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. Disregarded entity. For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor ⁴
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

EXHIBIT B

CLAY COUNTY RFP NO. 18/19-2 RENEWAL

EXHIBIT B



Administrative & Contractual Services

PO Box 1366
Green Cove Springs, FL
32043

Physical Address:
477 Houston Street
Admin. Bldg., 4th Floor
Green Cove Springs, FL
32043

Phone: 904-278-3766
904-278-3761
904-284-6388

Fax: 904-278-3728

County Manager
Howard Wanamaker

Commissioners:

Mike Cella
District 1

Wayne Bolla
District 2

Jim Renninger
District 3

Betsy Condon
District 4

Kristen Burke, DC
District 5

www.claycountygov.com



Date: February 1st, 2023

Vendor Name: Top Line Recreation, Inc

Address: 2922 Howland blvd, Suite 4

City: Deltona State: FL Zip: 32725

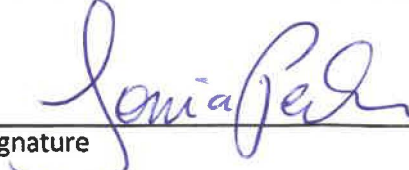
Dear Vendor:

RFP No. 18/19-2 will expire 05/27/2023. The bid states that there is an option for renewal if agreed upon by both parties. Please initial your choice, sign and date at the bottom. Return the original letter to this office.

X Please renew RFP No. 18/19-2 for an additional 1 year term at the same pricing, terms and conditions as originally awarded.

 We do not wish to renew the above bid beyond the current expiration date.

*At renewal time, vendors may add additional manufacturers by utilizing the attached forms. This may only be done as part of the RFP renewal process.


Signature

03-03-23
Date

Renewal must be signed by an officer or employee having the authority to legally bind the vendor.

Sincerely,

Ashley Catagan, Parks & Recreation

"RENEWAL" BID FORM
RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS

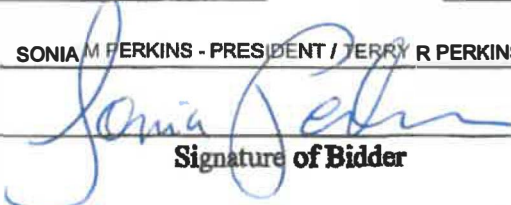
Bidder: TOP LINE RECREATION, INC

Address: 2922 HOWLAND BLVD - SUITE 4

City, State and Zip: DELTONA, FL 32725

Phone: 386-575-8359 **Email:** SONIAP@TOPLINEREC.COM

Contact Name(s): SONIA M PERKINS - PRESIDENT / TERRY R PERKINS - VP / TERRI ANN GRINER - OFFICE MANAGER



Signature of Bidder

***Bidder can provide additional price information related to Ball Field Lighting**

MANUFACTURER CATALOGS:

Manufacturer: B & BURKE PLAYGROUND S

Fixed Percentage Discount off MSRP: 5%

Installation (Fixed Percentage of cost after discounts of equipment): 55%

Manufacturer: SHADE SYSTEMS INC

Fixed Percentage Discount off MSRP: 5%

Installation (Fixed Percentage of cost after discounts of equipment): 125%

Manufacturer: AMERICANA

Fixed Percentage Discount off MSRP: 5%

Installation (Fixed Percentage of cost after discounts of equipment): 100%

Manufacturer: PREMIER POLYSTEEL

Fixed Percentage Discount off MSRP: 5%

Installation (Fixed Percentage of cost after discounts of equipment): 55% ; \$ 1,500 MINIMUM

(MULTIPLE SHEETS CAN BE USED)

"RENEWAL" BID FORM
RFP No. 18/19-2, VARIOUS EQUIPMENT AND AMENITIES FOR PARKS AND PLAYGROUNDS

Bidder: TOP LINE RECREATION, INC

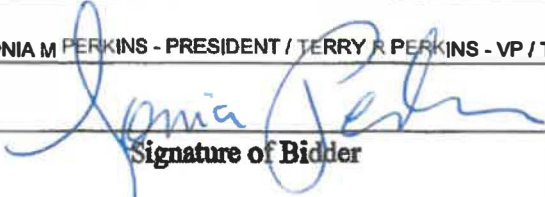
Address: 2922 HOWLAND BLVD - SUITE 4

City, State and Zip: DELTONA, FL 32725

Phone: 386-575-8359

Email: SONIAP@TOPLINEREC.COM

Contact Name(s): SONIA M PERKINS - PRESIDENT / TERRY R PERKINS - VP / TERRI ANN GRINER - OFFICE MANAGER


Signature of Bidder

***Bidder can provide additional price information related to Ball Field Lighting**

MANUFACTURER CATALOGS:

Manufacturer: YALP PLAYGROUNDS

Fixed Percentage Discount off MSRP:

5%

Installation (Fixed Percentage of cost after discounts of equipment):

55%

Manufacturer: PERCUSSION PLAY

Fixed Percentage Discount off MSRP:

5%

Installation (Fixed Percentage of cost after discounts of equipment):

55%

Manufacturer: DOG ON IT PARKS

Fixed Percentage Discount off MSRP:

5%

Installation (Fixed Percentage of cost after discounts of equipment):

55%

Manufacturer: _____

Fixed Percentage Discount off MSRP:

Installation (Fixed Percentage of cost after discounts of equipment):

(MULTIPLE SHEETS CAN BE USED)

"RENEWAL"

RFP #18-19-2, Various Equipment And Amenities For Parks And Playgrounds

SUB-CONTRACTOR EQUIPMENT INSTALLERS:

Business Name: BUILDWORX LLC
Address: 401 E SMITH ST - WINTER GARDEN, FL 34787
Phone Number: 407-904-9679
Contact Name: Johnnie D. Crow

Business Name: Total Maintenance
Address: 37736 TIFFANY Rd - Dade City, FL 33525
Phone Number: 813-766-2348
Contact Name: Billy Boydson

Business Name: SUNNY State Recreation
Address: 461 FOREST Meadow Ln - ORANGE PARK, FL 32065
Phone Number: 904-716-7789
Contact Name: William Johnson

Note: Upon request bidders must supply WRITTEN CERTIFICATION (s) naming bidder, and/or each of its sub-contractor installer(s), as an authorized installer certified to install park and playground equipment as required by each manufacturer. Installers shall have a Certified National Playground Safety Inspector (NPSI) present during installations and repairs.

(MULTIPLE SHEETS CAN BE USED)

"RENEWAL"
RFP #18-19-2, Various Equipment And Amenities For Parks And Playgrounds

SUB-CONTRACTOR EQUIPMENT INSTALLERS:

Business Name: AL BOSGRAAF & SONS, INC
Address: 240 REBEL RUN - OSTEEN, FL 32764
Phone Number: 407-402-8495
Contact Name: GERALD BOSGRAAF

Business Name: THE PLAYG ROUNDGUYS, INC
Address: 5600 SE LAMAY DRIVE
Phone Number: 772-215-8856
Contact Name: RANDY JONES

Business Name: SAFETY 1ST PLAYGROUNDS
Address: 4711 AUSTRALIAN AV - WEST PALM BEACH, FL 33407
Phone Number: 561-881-8630
Contact Name: GUY DIGENNARO

Note: Upon request bidders must supply **WRITTEN CERTIFICATION (s)** naming bidder, and/or each of its sub-contractor installer(s), as an authorized installer certified to install park and playground equipment as required by each manufacturer. Installers shall have a Certified National Playground Safety Inspector (NPSI) present during installations and repairs.

(MULTIPLE SHEETS CAN BE USED)

WARRANTY INFORMATION FORM

MAKE AND MODEL OF EQUIPMENT PROPOSED: BCI Burke Company - Playground

Is there a warranty on the equipment proposed?

Yes

No

Does the warranty apply to **ALL** components or only part? (State Explicitly)

Yes ; See Attached Warranty

Parts Warranty Period: Varies (5yr - lifetime) **Service Warranty Period:** 1 Year Install Warranty

Nearest source for parts and/or service center (s):

Top Line Recreation, Inc.

2922 Howland Blvd. Suite 4 Deltona, FL 32725

Name, address and phone number of the authorized service center (s):

- 1) Top Line Recreation, Inc. | 2922 Howland Blvd. Suite 6 Deltona, FL 32725 | 386-575-8359

2) _____

3) _____

Name, address and phone number of the authority issuing this warranty: (Manufacturer, Distributor, etc.)

BCI Burke Company - Playground | 920-921-9220

P.O. Box 549 | Fond Du Lac, Wisconsin 54936

COPY OF COMPLETE WARRANTY STATEMENT IS SUBMITTED HEREWITH: X

No

Name of Bidder: Sonia Perkins | Top Line Recreation, Inc.

Signature

Title **President**

Phone Number

386-575-8359

(MULTIPLE SHEETS CAN BE USED)

WARRANTY INFORMATION FORM

MAKE AND MODEL OF EQUIPMENT PROPOSED: Shade Systems, Inc. - Shade Structures

Is there a warranty on the equipment proposed? X Yes No

Does the warranty apply to ALL components or only part? (State Explicitly)

Yes ; See Attached Warranty

Parts Warranty Period: Varies (1yr - 20 Yrs) Service Warranty Period: 1 Year Install Warranty

Nearest source for parts and/or service center (s):

Top Line Recreation, Inc.

2922 Howland Blvd. Suite 4 Deltona, FL 32725

Name, address and phone number of the authorized service center (s):

1) Top Line Recreation, Inc. | 2922 Howland Blvd. Suite 3 Deltona, FL 32725 | 386-575-8359

2) _____

3) _____

Name, address and phone number of the authority issuing this warranty: (Manufacturer, Distributor, etc.)

Shade Systems, Inc. | 352-237-0135

4150 S.W 19th Street - Ocala, FL 34474

COPY OF COMPLETE WARRANTY STATEMENT IS SUBMITTED HEREWITH: X Yes No

Name of Bidder: Sonia Perkins | Top Line Recreation, Inc.

Signature

Title President

Phone Number 386-575-8359

(MULTIPLE SHEETS CAN BE USED)

WARRANTY INFORMATION FORM

MAKE AND MODEL OF EQUIPMENT PROPOSED: Americana Building Products

Is there a warranty on the equipment proposed? X
Yes No

Does the warranty apply to ALL components or only part? (State Explicitly)

Yes ; See Attached Warranty

Parts Warranty Period: Varies (10yr - Lifetime) Service Warranty Period: 1 Year Install Warranty

Nearest source for parts and/or service center (s):

Top Line Recreation, Inc.

2922 Howland Blvd. Suite 4 Deltona, FL 32725

Name, address and phone number of the authorized service center (s):

1) Top Line Recreation, Inc. | 2922 Howland Blvd. Suite 3 Deltona, FL 32725 | 386-575-8359

2) _____

3) _____

Name, address and phone number of the authority issuing this warranty: (Manufacturer, Distributor, etc.)

Americana Building Products | 800-851-0865

P.O. Box 1290 - Salem, IL 32881

COPY OF COMPLETE WARRANTY STATEMENT IS SUBMITTED HEREWITH: X
Yes No

Name of Bidder: Sonia Perkins | Top Line Recreation, Inc.

Signature

Title President

Phone Number 386-575-8359

(MULTIPLE SHEETS CAN BE USED)

WARRANTY INFORMATION FORM

MAKE AND MODEL OF EQUIPMENT PROPOSED: Patterson Williams/ PW Athletic

Is there a warranty on the equipment proposed? X Yes No

Does the warranty apply to ALL components or only part? (State Explicitly)

Yes ; See Attached Warranty

Parts Warranty Period: Varies (1yr -50yrs) Service Warranty Period: 1 Year Install Warranty

Nearest source for parts and/or service center (s):

Top Line Recreation, Inc.

2922 Howland Blvd. Suite 4 Deltona, FL 32725

Name, address and phone number of the authorized service center (s):

1) Top Line Recreation, Inc. | 2922 Howland Blvd. Suite 3 Deltona, FL 32725 | 386-575-8359

2) _____

3) _____

Name, address and phone number of the authority issuing this warranty: (Manufacturer, Distributor, etc.)

Patterson Williams/ Patterson Williams Athletic | 800-687-5768

P.O. Box 1290 - Salem, IL 32881

COPY OF COMPLETE WARRANTY STATEMENT IS SUBMITTED HEREWITH: X Yes No

Name of Bidder: Sonia Perkins | Top Line Recreation, Inc.

Signature

Title President

Phone Number 386-575-8359

(MULTIPLE SHEETS CAN BE USED)

BURKE GENERATIONS WARRANTY®

The Longest and Strongest warranty in the industry

BCI Burke Company, LLC ("Burke") warrants that all standard products are warranted to be free from defects in materials and workmanship, under normal use and service, for a period of one (1) year from the date of shipment.

We stand behind our products.

In addition, the following products are warranted, under normal use and service from the date of shipment as follows:

- One Hundred (100) Year Limited Warranty on aluminum and steel upright posts (including Intensity®, Synergy®, Nucleus®, Voltage®, Little Buddies®, ELEVATE®, ACTIVATE®, INVIGORATE™) against structural failure due to corrosion, deterioration or workmanship.
- One Hundred (100) Year Limited Warranty on KoreKconnect® clamps against structural failure due to corrosion, deterioration or workmanship.
- One Hundred (100) Year Limited Warranty on Hardware (nuts, bolts, washers)
- One Hundred (100) Year Limited Warranty on bolt-through fastening and clamp systems (Synergy®, Intensity®, Nucleus®, Voltage®, Little Buddies®, ELEVATE®).
- Twenty-Five (25) Year Limited Warranty on spring assemblies and aluminum cast animals.
- Fifteen (15) Year Limited Warranty on structure platforms and decks, metal roofs, table tops, bench tops, railings and barriers against structural failure due to materials or workmanship.
- Fifteen (15) Year Limited Warranty on all plastic components including StoneBorders against structural failure due to materials or workmanship.
- Ten (10) Year Limited Warranty on ShadePlay Canopies fabric, threads, and cables against degradation, cracking or material breakdown resulting from ultra-violet exposure, natural deterioration or manufacturing defects. This warranty is limited to the design loads as stated in the specifications.
- Ten (10) Year Limited Warranty on NaturePlay® Boulders and GFRP products against structural failure due to natural deterioration or workmanship. Natural wear, which may occur with any concrete product with age, is excluded from this warranty.
- Ten (10) Year Limited Warranty on Full Color Custom Signage against manufacturing defects that cause delamination or degradation of the sign. Full Color Custom Signs also carry a two (2) year warranty against premature fading of the print and graphics on the signs.
- Five (5) Year Limited Warranty on Intensity® and RopeVenture® cables and LEVEL X® flex bridge against premature wear due to natural deterioration or manufacturing defects. Determination of premature wear will be at the manufacturer's discretion.
- Five (5) Year Limited Warranty on moving parts, including swing components, against structural failure due to materials or workmanship.
- Five (5) Year Limited Warranty on PlayEnsemble® cables and mallets against defects in materials and workmanship.
- Three (3) Year Limited Warranty on electronic panel speakers, sound chips and circuit boards against electronic failure caused by manufacturing defects.

The warranty stated above is valid only if the equipment is erected in conformity with the layout plan and/or installation instructions furnished by BCI Burke Company, LLC using approved parts; have been maintained and inspected in accordance with BCI Burke Company, LLC instructions. Burke's liability and your exclusive remedy hereunder will be limited to repair or replacement of those parts found in Burke's reasonable judgment to be defective. Any claim made within the above stated warranty periods must be made promptly after discovery of the defect. A part is covered only for the original warranty period of the applicable part. Replacement parts carry the applicable warranty from the date of shipment of the replacement from Burke. After the expiration of the warranty period, you must pay for all parts, transportation and service charges.

Burke reserves the right to accept or reject any claim in whole or in part. Burke will not accept the return of any product without its prior written approval. Burke will assume transportation charges for shipment of the returned product if it is returned in strict compliance with Burke's written instructions.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IF THE FOREGOING DISCLAIMER OF ADDITIONAL WARRANTIES IS NOT GIVEN FULL FORCE AND EFFECT, ANY RESULTING ADDITIONAL WARRANTY SHALL BE LIMITED IN DURATION TO THE EXPRESS WARRANTIES AND BE OTHERWISE SUBJECT TO AND LIMITED BY THE TERMS OF BURKE'S PRODUCT WARRANTY. SOME STATES DO NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

Warranty Exclusions: The above stated warranties do not cover: "cosmetic" defects, such as scratches, dents, marring, or fading; damage due to incorrect installation, vandalism, misuse, accident, wear and tear from normal use, exposure to extreme weather; immersion in salt or chlorine water, unauthorized repair or modification, abnormal use, lack of maintenance, or other cause not within Burke's control; and

Limitation of Remedies: Burke is not liable for consequential or incidental damages, including but not limited to labor costs or lost profits resulting from the use of or inability to use the products or from the products being incorporated in or becoming a component of any other product. If, after a reasonable number of repeated efforts, Burke is unable to repair or replace a defective or nonconforming product, Burke shall have the option to accept return of the product, or part thereof, if such does not substantially impair its value, and return the purchase price as the buyer's entire and exclusive remedy. Without limiting the generality of the foregoing, Burke will not be responsible for labor costs involved in the removal of products or the installation of replacement products. Some states do not allow the exclusion of incidental damages, so the above exclusion may not apply to you.

The environment near a saltwater coast can be extremely corrosive. Some corrosion and/or deterioration is considered "normal wear" in this environment. Product installed within 500 yards of a saltwater shoreline will only be covered for half the period of the standard product warranty, up to a maximum of five years, for defects caused by corrosion. Products installed in direct contact with saltwater or that are subjected to salt spray are not covered by the standard warranty for any defects caused by corrosion.

Contact your local Burke Representative for warranty information regarding Burke Turf® and Burke Tile products.

Terms of Sale

Pricing: Prices published in this catalog are in USD, are approximate and do not include shipping & handling, surfacing, installation nor applicable taxes. All prices are subject to change without notice. Contact your Burke representative for current pricing. Payments are to be made in USD.

Weights: Weights are approximate and may vary with actual orders.

Installation: All equipment is shipped unassembled. For a list of factory-certified installers in your area, please contact your Burke representative.

Specifications: Product specifications in this catalog were correct at the time of publication. However, product improvements are ongoing at Burke, and we reserve the right to change or discontinue specifications without notice.

Loss or Damage In Transit: A signed bill of lading is our receipt from a carrier that our shipment to you was complete and in good condition upon arrival. Before you sign, please check the Bill of Lading carefully when the shipment arrives to make sure nothing is missing and there are no damages. Once the shipment leaves our plant, we are no longer responsible for any damage, loss or shortage.

For more information regarding the warranty, call Customer Service at 920-921-9220 or 1-800-356-2070.

01/2022



LIMITED WARRANTY

Effective 12/1/10

Shade Systems, Inc. warrants that the equipment sold will conform in kind and quality to the specifications listed in the Order Acknowledgment and will be free of defects in workmanship or materials. Shade Systems further warrants:

- **LIMITED 20 YEAR WARRANTY** on all upright posts and support structure frames against failure due to rust-through corrosion. This warranty excludes any cosmetic issues.
- **LIMITED 10 YEAR WARRANTY** on all CoolNet™ fabrics, threads, and cables against degradation, cracking or material breakdown resulting from ultra-violet exposure, mold, and mildew, as well as on Turn-N-Slide™ fastening device. This warranty excludes fading or failure of fabric due to chemical erosion or flying or falling objects.
- **LIMITED 3 YEAR WARRANTY** on all WeatherNet™ fabrics and threads against degradation, cracking or material breakdown resulting from ultra-violet exposure, mold, and mildew. This warranty excludes fading or failure of fabric due to chemical erosion or flying or falling objects.
- **LIMITED 1 YEAR WARRANTY** for structural failure of moving parts, powder-coated finish, or any other product or part not covered by one of the above warranties.

All above warranties commence on the date of the Seller's invoice.

Should any failure to conform to the above express warranties appear within the applicable warranty period, Seller shall, upon being notified in writing promptly after discovery of the defect and within the applicable warranty period, correct such non-conformity at the sole option of the Seller either by repairing any defective part or parts, or by making available a replacement part within 60 days of written notification. Seller shall deliver the repaired or replacement part or parts to the site free of charge, but will not be responsible for providing labor or the cost of labor for the removal of the defective part or parts, transportation or its associated costs to return to Seller's factory parts to be replaced or repaired, or the installation of any replacement part or parts. Replacement parts will be warranted for remainder of original warranty.

This Warranty is exclusive and in lieu of all other warranties, whether express or implied, including but not limited to any warranty of merchantability or of fitness for a particular purpose. The remedies hereby provided shall be the exclusive and sole remedies of the purchaser. Seller shall not be liable for any direct, indirect, special, incidental or consequential damages.

Seller neither assumes nor authorizes any employee, representative or any other person to assume for Seller any other liability in connection with the sale or use of the structures sold, and there are no oral agreements or warranties collateral to or affecting the agreement.

The warranty stated above is valid only if the structures are erected in conformity with the layout plan and/or installation instructions furnished by the Seller; have been maintained and inspected in accordance with the Seller's instructions and other normal and prudent practices; have been subjected to normal use for the purpose for which the goods were designed; have not been subjected to misuse, negligence, vandalism, or accident; have not been subjected to additional or substitution of parts; and have not been modified, altered, or repaired by persons other than the Seller's designees in any respect which, in the judgment of Seller, affects the condition or operation of structures.

To make a claim, send your written statement of claim, along with the original invoice number to:

Shade Systems, Inc. • 4150 S.W. 19 Street • Ocala, FL 34474

QUALITY MANUFACTURING SINCE 1919

PW Athletic Mfg. Co., Patterson-Williams LLC warrants its products to be free from defect in materials or workmanship during normal use and installation provided our published specification/installation instructions are followed and approved parts are used.

WARRANTY TERMS

This warranty is valid only if the product has been subjected to normal use for the purpose for which they were designed; has not been subject to vandalism, misuse, neglect, or accident; has not been subjected to addition or substitution of parts; and has not been modified or altered.

This warranty does not cover cosmetic items, for example, scratches, dents, marring, fading, discoloring, weathering, paint or decorations, normal wear and tear, or damage due to checking and warping. This warranty will not cover acts of God, incorrect installation, corrosion by moisture, chemical and pollution.

The warranty period begins on the date of invoice. It does not cover the cost of removal and/or installation warranted of the replaced product. All claims must be accompanied by a copy of the original invoice. PW Athletic must be notified before any corrective action is taken and reserves the right to determine whether claims will be fulfilled by replacement or other means. Replacement parts are guaranteed for the remainder of the original warranty period.

LIFETIME LIMITED WARRANTY:

On all stationary basketball posts, all backboards and all basketball goals and aluminum materials against material failure and corrosion.

50 YEAR LIMITED WARRANTY:

On Polytuf™ Recycled Plastic Lumber against rot, splinter, decay or structural damage directly from termites or fungal decay under normal use.

10 YEAR LIMITED WARRANTY:

On bike racks, volleyball standards, standard tennis posts, soccer goals, foul ball poles, football goalposts, backstop frames, steel bench frames, table frames, litter receptacle frames, ash receptacles, and park bollards. On all powder coat finishes. With the use of approved cleaning methods, the 500 series colors are guaranteed to allow removal of graffiti with virtually no change to the finish.

5 YEAR LIMITED WARRANTY:

On all grills against material failure. Damage caused from excessive fires and improper maintenance or cleaning is not covered.

3 YEAR LIMITED WARRANTY:

On Basketball Targets & Perimeters and all other PW products not listed, including all hardware.

1 YEAR LIMITED WARRANTY:

On Model 1590 adjustable basketball posts, HD Tennis Posts, and all nets and protective pads.

TERMS OF SALE

Standard terms of payment are net 30-days from factory ship date for all publicly funded schools, park districts, municipalities and other publicly funded institutions. All others are 50% down, with balance required before shipment. A monthly finance charge of 1-1/2% per month will apply to all past due accounts. We accept Mastercard and Visa.

Please check your shipment carefully at time of delivery for possible damage or shortages. Although we take extra care to ensure your order is packed complete, items may become lost in transit. Check the Bill of Lading and Packing List at the time of delivery by the freight company for accuracy and/or possible shipping damage, and please call your local PW dealer immediately to assist with any questions or subsequent freight claims.

During the year, our engineering team finds new ways to improve our product designs. Rather than make our customers wait until year's end and a new catalog to make these improvements, we do reserve the right to change product specifications without notice.

Orders for custom or modified equipment require 50% down and cannot be cancelled. Returns on any product will need to be authorized by PW and assigned an RGA number prior to shipment. A 20% restocking charge will apply on returned goods. Any questions concerning our terms or warranties can be directed to your local PW dealer or by contacting the PW customer service department at 1-800-687-5768.

Standard: Super durable frame finishes:

The anti-graffiti, super durable polyester TGIC finish, is a powder that is applied 6-9 mils thick then cured at 400 degrees until fused into a smooth glossy permeate coating. This coating meets AAMA 2604-2 specifications and has a much longer life expectancy than the industries standard TGIC. This anti-graffiti coating provides an outstanding finish.

The smooth glossy surface can withstand numerous cleanups with the use of our proprietary chemical cleaner without altering the finish. Paint and marker can be removed completely with only a slight reduction in gloss.

The architectural matte, super durable polyester TGIC finish, is a powder that is applied 6-9 mils thick then cured at 400 degrees into a smooth matte permeate coating. This coating meets AAMA 2604-2 specifications and has a much longer life expectancy than the industries standard TGIC.

Premium Frame Finish (up charge)

A 2-3 mil thick zinc rich primer is applied prior to a final standard color coat. This premium finish enhances the ability of your structure to combat even the harshest environments and has withstood over 1000 hours in our salt/fog test chamber. This primer prevents rust from forming and spreading in the event of nicks and scratches in the color coat, providing the ultimate in pre-finished steel structure coatings.



Warranty Terms

Lifetime Limited Warranty

Lifetime Limited Warranty on aluminum against material failure and corrosion.

25 Year Limited Warranty

25 Year Limited Warranty on steel against material failure and defects.

10 Year Limited Warranty

10 Year Limited Warranty on Solamesh Fabrics

10 Year Limited Warranty on all powder coat finishes (200 and 500 series).

With the use of Americana's 500 Series Anti-graffiti powder coat finish is guaranteed to allow removal of graffiti with virtually no change to the finish.

Americana will not be responsible for damages caused by others, building settlement, corrosion by moisture, chemical and pollution, or acts of God. Damage caused by vandalism, abnormal use, lack of maintenance, or incorrect installation will not be covered.

EXHIBIT C

TOP LINE QUOTATION #TLRQ5191-04



Top Line Recreation Inc.
2922 Howland Blvd, Suite 3, Deltona, FL 32725
386-575-8359

QUOTE #	TLRQ5191-04
PROJECT NAME	Oak Street

Bill to:

Rod Bargaineer
City of Kissimmee Parks & Rec
101 Church Street
Kissimmee, FL 34741
407-518-2363
Rod.bargaineer@kissimmee.gov

Ship to:

Rod Bargaineer
City of Kissimmee Parks & Rec
Oak Street Park
717 North Palm Avenue
Kissimmee, FL 34741
407-518-2363
Rod.bargaineer@kissimmee.gov

SALESPERSON	PAYMENT TERMS	QUOTE CREATED	QUOTE EXPIRES
Debbie Lloyd	50% Deposit / Net 15	Sep 8, 2023	Sep 15, 2023

QTY	PART NUMBER	DESCRIPTION	UNIT PRICE	TOTAL PRICE
Oak Street Park Shelter				
Clay County Contract RFP 18/19-2				
1	AM109854	Americana Illini Shelter with Metal Roof, 20' x 40' (roof size) 4:12 Pitch, 8' eave height, Eight Surface Mount Posts, Tubular Steel Frame is Shot Blasted and Zinc Rich Powder Primed prior to Graffiti Cleanable Gloss or Non-Graffiti Cleanable Matte Powder Coat Finish, Aluminum or Galvalume "W" Structural Roof Panels, Extruded Aluminum Gutter Fascia & Ridge Caps, Standard Color	\$26,270.67	\$26,270.67
		5.0% Discount per Clay County		-\$1,313.53
32	ANCHOR	Anchor bolt for shelters 3/4" Diameter -10 x 12" Long Galv Gr 36 ASTM w/ Hex Nut Tacked Anchor Bolts with top Hex Nut and Washer	\$21.51	\$688.32
		5.0% Discount per Clay County		-\$34.42
1	ENG1AM	FL Engineer Sealed Drawings & Calculations	\$1,000.00	\$1,000.00
1	FREIGHT	ABF Charges to Kissimmee, FL 34741	\$4,375.00	\$4,375.00
1	SITWORK	Demo of existing shelter (6 posts) 25' x 20' and removal / haul away Demo of existing concrete slab (saw cut one end for install for new shelter), and footers. Provide haul off of all building materials after completion of project. Haul off of existing wood mulch Includes #57 stone at 25' x 20' x 6" depth and install where mulch is being removed and 95% compaction	\$31,550.00	\$31,550.00
1	BUILDWRX	*Installation of 20' x 40' shelter metal roof / 8 posts with 24" dia. X 38" deep footers (labor) *Pull permit with City of Kissimmee (price within labor) *Pull Utility locator (price within labor) *20'x40' slab with concrete fiber tech in concrete under new shelter and 6'x14' replacement slab with concrete fiber tech in concrete under existing shelter area.	\$39,092.50	\$39,092.50

Clarifications: Tying power from building to shelter Pulling site plan (if required by Permitting Dept) Remove existing fence

QTY	PART NUMBER	DESCRIPTION	UNIT PRICE	TOTAL PRICE
		and replace Purchase of site amenities and drinking fountain Removal of existing and installation of new drinking fountain Purchase and installation wet rated ceiling fans, and motion sensor light timers Dumpster on site Any required sod and / or mulch for current playground		
			SUBTOTAL	\$101,628.54
			TAX RATE	
			SALES TAX	\$0.00
			TOTAL	\$101,628.54
			DEPOSIT	\$50,814.27

Please contact me if I can be of further assistance.
DEBBIE LLOYD 407-579-1410



2922 Howland Blvd, Suite 3
Deltona, FL 32725
386-789-4508 / 888-909-0549 Fax
800-921-4509 Toll Free
info@toplinerec.com

Client:

General Terms:

Please note that this order is non-cancelable once placed, and deposit is non-refundable. If shipment is refused when delivery is attempted, carrier will return the shipment to the manufacturer and all resulting charges will be applied to your account.

Acceptance by either a signature or a purchase order based on this proposal indicates that you are in full agreement with all terms and conditions of this proposal including the following:

Prices are valid for 30 days. After 30 days, prices are subject to change without notice. Sales tax will be charged unless a copy of a valid Sales tax exemption certificate is presented with order. Specify all color selections in writing. Any discrepancies that arise due to oral color selections will be the responsibility of the customer. If customer is installing equipment, all equipment is to be installed per manufacturer's instructions and appropriate guidelines such as ASTM and CPSC.

Installation, site work, building permits, engineered drawings, etc. are not included unless noted.

Installation Terms:

Standard Services Include:

- | | |
|--|---|
| - Shipping Notification/Receiving Instructions | - Layout of Equipment |
| - Pre-Installation On-Site Meeting | - Installation of Equipment and Materials Per Manufacturer's Instructions |
| - Underground Utility Check (Sunshine State One Call) | - Trash Clean Up (Dumpsters and Off-Site Trash Disposal not Standard) |
| - Accept Delivery and Unload Equipment
(If site is ready) | - Post-Installation Walk Through |
| - Moving New Equipment to Job Site | - Maintenance Explanation |

Customer Responsibilities (Applicable if Top Line Recreation, Inc is NOT installing):

- Trash Disposal - Dumpsters or Off Site Disposal.
- Accept Delivery and Unload Equipment (If site is not ready.) \$500.00 Charge will Apply if Customer Wants Installers to Unload.
- Provide Area for Storage and Staging.
- Secure Site and Equipment.
- Provide Access as Outlined below.

Some Optional Responsibilities (Must be clearly outlined in the applicable quotation/contract):

- Removal of Existing Equipment.
- Site Preparation and Grading, Drainage Systems, etc.
- Engineered Drawings for Purchased Equipment.
- Other Permits or Engineered Drawings (i.e. zoning permits, environmental permits, site surveys, etc.)

*Any other responsibilities must be clearly outlined in the applicable quotation/contract.

Building permits

Building permits are the responsibility of the owner. If a building permit is required for your project, there will be an administrative, expeditor, and application fee included on project quote. This fee does not include the cost of the actual permit. Customer will be charged "actual permit" cost on last invoice.

NOTE - All zoning, planning, environmental, etc. permits and approvals are the responsibility of others.

Other Notes:

Access/Utilities. Access must be provided to the installation area for heavy trucks and equipment. Access of equipment and personnel is the obligation of the customer to provide until the project is fully completed. We will take every precaution to avoid damage, however any damage caused by the normal installation of our product, such as sod, concrete sidewalks, private underground utilities, etc., will be the responsibility of the customer, as will any additional costs associated with limiting damage such as providing plywood over sod for access. If access is not reasonably close to the jobsite, any additional costs incurred due to having to transport materials and/or supplies will be the responsibility of the customer.

Rock/Foreign Object Clause. Most installations require digging of holes and footing equipment in concrete below finished grade. Removal of existing ground covers such as asphalt, concrete, tan bark, sand, pea gravel, wood fiber, rubber matting, poured-in-place rubber surfacing, or any other material that interferes or delays the digging of holes, is the responsibility of others, unless otherwise noted. If excessive underground obstructions such as rock, coral, asphalt, concrete, pipes, drainage systems, root systems, water, or any other unknown obstructions are discovered, charges will be added to the original proposal.

Playground Surfacing. All playground equipment is to be installed over safety surfacing per CPSC guidelines and ASTM standards. If the customer contracts for something contrary to the guidelines, they are accepting all responsibility for any liability and future litigation that may arise.

If a special inspection is required, an additional fee of \$700.00 will be added to the final invoice.

Acceptance Signature _____ Date _____ P.O. # _____

Tax Exempt No. _____

ITEM 7.H

Building Fund budget adjustments

Request

Approval of a budget transfer of \$2,365,928 from the Building Fund Reserve account to the Capital Project and Professional Services accounts.

Explanation

Phase 1 of the addition to City Hall that will house the Development Services Building Division is currently under construction. The contract for the addition was approved by the City Commission on December 6, 2022. Phase 2 was included in the contract as an additional task, which includes the completion of the interior of the second floor of the addition and has been priced at \$2,306,428.00. This brings the cost of the building addition to \$6,828,627.39. The additional funds must be transferred from the Building Fund Reserve Account.

In addition, City Staff is currently in the process of developing construction documents for the City Hall courtyard and plaza design that will occur once the building addition is complete. The cost of this task is \$34,500. These funds will also need to come out of the Building Fund Reserve, as they were unplanned and not budgeted for Fiscal Year 2024.

Finally, the Fire Prevention section of the Building Division is purchasing a new vehicle for the new Fire Inspector that was hired as of October 1, 2023. The vehicle is priced much higher than last year's State Contract for vehicles on which the FY24 Budget request is based. Along with the specialized equipment required for Fire Prevention, an additional \$15,000 is required to purchase the vehicle.

The total amount that will be transferred from the Building Fund Reserve account is \$2,355,928.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
10140100-509276		Decrease	\$2,355,928	
10140106-506292	DS2206	Increase	\$2,306,428	
10140103-503131	NA	Increase	\$34,500	
10140106-506495	DS2310	Increase	\$15,000	

Financial Summary:

The building fund has adequate reserves to cover these expenditures.

Recommendation

The City Commission approve a budget transfer of \$2,365,928 from the Building Fund Reserve account to Capital Project and Professional Services accounts.

City of Kissimmee

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Development Services

Presenter:

Attachment(s):

1. Inspire Placemaking Collective Proposal for City Hall Courtyard and Plaza Design
2. Balfour Beatty Construction Work Order Change 5.

09 October, 2023

Mr. Robert Masiku
Facilities Construction & Maintenance Manager
City of Kissimmee
101 Church Street
Kissimmee, FL 34741

M: 407-847-2821
E: robert.masiku@kissimmee.gov

Reference: Kissimmee City Hall Courtyard & Plaza Design # 231123.1 Construction Documents

Dear Robert:

Inspire Placemaking Collective, Inc. (Inspire) appreciates the opportunity to submit this proposal for the above-referenced project. This proposal, based on our Teams meeting with you on September 1, 2023, provides a proposed scope of work and associated fees for this effort.

Project Information

It is our understanding that the City of Kissimmee (client) would like assistance with the production of construction documents for its courtyard and outdoor plaza area adjacent to the new Development Services addition (currently under construction). The basis of design is the Final Conceptual Design package, presented and approved on September 1, 2023.

Scope of Services

Inspire proposes to offer the following services as part of this proposal:

Task 1: Design Development Documents

Inspire will proceed into the Design Development phase of the project. Any owner comments or VE / budget changes will be incorporated into the Design Development plan set. Following completion of the Design Development Phase, minor changes can be incorporated into the Construction Documents, but any substantial changes will constitute additional services.

- Inspire will submit DD/50% construction documents addressing project hardscape, landscape and irrigation for Client related input to be incorporated into the next phase of production.

Task 2: Construction Documents

- Following approval of, and any changes to the Concept design starting point, Inspire will submit 90%, and 100% construction documents milestones addressing the project's hardscape, landscape, schematic lighting design, site lighting and irrigation.

Documents may include:

- Hardscape Layout Plan
 - Hardscape Materials Plan
 - Hardscape fine Grading Plan
 - Conceptual Lighting Plan (with connection to Kissimmee's existing DMX system)
 - Landscape Planting Plan
 - Irrigation Plan
 - Hardscape Construction Details
 - Landscape Installation Details & Notes
 - Irrigation Installation Details & Notes
- Hardscape plans and details will indicate layout, dimension, details, finishes, materials and specifications of the various elements. Sections will be included to identify design intent and clarify connections of the various components. Structural design and engineering for typical site elements are included in this scope. Structural design and engineering for more complex and non-typical site features are excluded.
 - Inspire will attend up to four (4) meetings with the Client to review the construction documents. Input received will be reflected in the subsequent submittal.
 - Inspire will assist the Client in providing quantities and takeoffs for the landscape and hardscape items that are part of the landscape architectural scope for use by the Contractor or Construction Manager for cost estimating.

Task 3: Permitting/Agency Coordination and Bidding Assistance

As part of this task, Inspire will:

- Assist in the preparation of the submittal documents required approval by the City of Kissimmee.
- Submit drawings, obtain review comments and make necessary plan revisions, and coordinate local review of site development plans to attempt to gain agency approval through the City of Kissimmee. The base scope of services includes two (2) rounds of comment responses. Should additional review cycles be required, additional services may be incurred.
- Inspire will assist the Client during the bidding phase by addressing contractor RFI's and issuing addenda as required.

Task 4: Construction Phase Services

Design team involvement during the construction phase can help to resolve issues that may arise, clarify contractor questions, provide oversight for material selection, and during construction observation site visits. As part of this task, Inspire will perform the following services on an hourly basis:

- Review shop drawings for landscape and hardscape elements.
- Coordinate reasonable contractor questions and RFI responses.
- Perform site visits to observe construction progress of landscape and hardscape construction and installation. These site visits will likely include but are not limited to a Pre-Construction Meeting, Hardscape Review, Substantial Completion and Final Completion.
- Perform tree-tagging services as requested.

Fee

Our professional fee for the above-described services shall be a lump sum of **\$34,500** to be invoiced on a percent complete basis per the following fee schedule.

Task	Fee
Task 1: Design Development Documents	\$16,000.00
Task 2: Construction Documents	\$18,500.00
Task 3: Final Conceptual Design	Hourly
Task 4: Construction Phase Services	Hourly
TOTAL	\$34,500.00

Included in the above fees are reimbursable expenses incurred on the Project's behalf, including mileage, printing, plotting, photocopies, reproduction, postage, express mail and/or courier services.

Inspire will bill monthly for all work performed and expenses incurred on the Project's behalf.

Schedule

The proposed services will be completed within eight (8) weeks from the issuance of a notice to proceed, less review time from Client.

Exclusions

Without intending to provide an exhaustive list or description of all services or potential services that may be required and that Inspire can provide, the following services are specifically excluded from this proposal:

- Survey
- Geotechnical Analyses
- Environmental Analyses

- Additional meetings
- Preliminary engineering and utility coordination
- Electrical Engineering and Photometrics
- Preparation of schematic site design(s) or alternative analysis.

Authorization

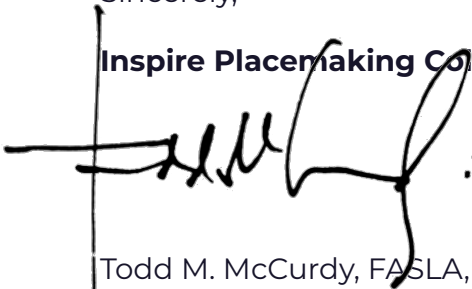
If you elect to accept our proposal by issuing a purchase order, then please specifically reference this proposal date. Your purchase order will be an acceptance of our Agreement for Services and an authorization to proceed with the performance of our services.

Closure

We appreciate the opportunity to be of service to you. If you have any questions regarding the outlined scope of services, or if we may be of further assistance, please do not hesitate to contact us.

Sincerely,

Inspire Placemaking Collective, Inc.



Todd M. McCurdy, FASLA, CLARB

Principal



EXHIBIT "H"

CHANGE ORDER

CHANGE
ORDER

City _____
Engineer _____
Contractor _____

PROJECT: Kissimmee City Hall Addition

CHANGE ORDER NO: 5

CITY OF KISSIMMEE, A MUNICIPAL CORPORATION OF
THE STATE OF FLORIDA

INITIATION DATE: 10/04/2023

TO CONTRACTOR:

PROJECT NO: RFP2022-008

Balfour Beatty Construction, LLC
255 S. Orange Ave., Suite 1100
Orlando, FL 32801

CONTRACT DATE: 12/06/2022

The contract is changed as follows:

1. Phase 2 scope of work
2. 2nd floor alternate added scope of work

The original (Contract Sum) (Guaranteed Maximum Price) was..... \$ 4,892,813.00
Net Change by previously authorized Change Orders.....\$ (370,613.61)
The (Contract Sum) (Guaranteed Maximum Price) prior to this change order was.....\$ 4,522,199.39
The (Contract Sum) (Guaranteed Maximum Price) will be **(increased)** **(decreased)**
(unchanged) by this Change Order in the amount of..... \$2,306,428.00
The new (Contract Sum) (Guaranteed Maximum Price) including this Change Order will be..... \$6,828,627.39
The Contract Time will be (increased) (decreased) (unchanged) by (0) days
The date of Substantial Completion as of date of this Change Order therefore is: 06/20/2024

<u>RS & H, Inc.</u>	<u>Balfour Beatty Construction, LLC</u>	<u>Kissimmee City Commission</u>
ARCHITECT/ENGINEER	CONTRACTOR	
<u>301 E. Pine St., #350</u>	<u>255 S. Orange Ave., Suite 1100</u>	<u>101 Church Street</u>
ADDRESS	ADDRESS	ADDRESS
<u>Orlando, FL 32801</u>	<u>Orlando, FL 32801</u>	<u>Kissimmee, Florida, 34741</u>
By <u>[Signature]</u>	By <u>[Signature]</u>	By _____
	By <u>[Signature]</u>	Mayor / Commissioner
		Or <u>[Signature]</u>
		City Manager or Designee
Date <u>10/12/2023</u>	Date <u>10/12/2023</u>	Date <u>10/13/2023</u>

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.

DOW	Phase 2	2nd Floor Alt.	Total
GR's	\$ 51,979.00	\$ 14,277.00	\$ 66,256.00
Final Cleaning	\$ 18,000.00		\$ 18,000.00
Concrete	\$ 57,938.00		\$ 57,938.00
Ornamental Metals	\$ 9,495.00		\$ 9,495.00
Millwork	\$ 26,250.00	\$ 7,000.00	\$ 33,250.00
Fireproofing	\$ 18,600.00		\$ 18,600.00
Roofing	\$ 88,500.00		\$ 88,500.00
Doors & Frames	\$ 13,000.00	\$ 32,000.00	\$ 45,000.00
Stucco & Plaster	\$ 76,217.00		\$ 76,217.00
Drywall & Framing	\$ 278,119.00	\$ 59,369.00	\$ 337,488.00
Flooring	\$ 36,250.00	\$ 25,000.00	\$ 61,250.00
Paint / WC's	\$ 25,194.00	\$ 5,397.00	\$ 30,591.00
Signage	\$ 7,500.00	\$ 1,500.00	\$ 9,000.00
Div 10	\$ 23,427.00	\$ 5,000.00	\$ 28,427.00
Elevators	\$ 24,800.00		\$ 24,800.00
Fire Sprinkler	\$ 76,901.00	\$ 30,029.00	\$ 106,930.00
Plumbing	\$ 157,880.00	\$ 9,950.00	\$ 167,830.00
HVAC	\$ 188,340.00	\$ 124,400.00	\$ 312,740.00
Electrical	\$ 178,400.00	\$ 49,500.00	\$ 227,900.00
LV	\$ 113,261.00	\$ 20,479.00	\$ 133,740.00
Landscaping	\$ 36,826.00		\$ 36,826.00
SDI	\$ 23,879.00	\$ 5,759.00	\$ 29,638.00
Contingency	\$ 40,395.00	\$ 9,741.00	\$ 50,136.00
GC's	\$ 177,274.00	\$ -	\$ 177,274.00
GL	\$ 20,423.00	\$ 4,449.00	\$ 24,872.00
P&P Bond	\$ 16,299.00	\$ 3,550.00	\$ 19,849.00
Fee	\$ 93,511.00	\$ 20,370.00	\$ 113,881.00
TOTALS	\$ 1,878,658.00	\$ 427,770.00	\$ 2,306,428.00

24

ITEM 7.I

2023 Bulletproof Vest Partnership Grant from the United States Department of Justice, Office of Justice Programs

Request

The Police Department requests the Commission's approval to accept the 2023 Bulletproof Vest Partnership Grant from the United States Department of Justice, Office of Justice Programs, in the amount of \$12,660.

Explanation

The City of Kissimmee has been notified by the Bureau of Justice Assistance that it has been awarded funds under the Fiscal Year (FY) 2023 Patrick Leahy Bulletproof Vest Partnership (BVP) solicitation.

The total award is \$12,660. These monies will be allocated for the partial funding of bulletproof vests as outlined in the grant application. The balance of the funds needed for the purchase of the remainder of the bulletproof vests will come from the department's General Fund.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
00100331 331100		Increase	12,660	
00130303 505257		Increase	12,660	

Financial Summary:

Grant funds will be deposited in the above accounts.

Recommendation

Staff recommends the acceptance of the FY2023 Bulletproof Vest Partnership Grant from the United States Department of Justice, Office of Justice Programs.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Police

Presenter:

Attachment(s):

1. 2023 BVP application awarded

City of Kissimmee

APPLICATION DETAILS

APPLICATION PROFILE

Participant	KISSIMMEE CITY
Fiscal Year	2023
Number of Agencies Applied	0
Total Number of Officers for Application	157
Number of Officers on Approved Applications	157

APPLICATION PROFILE

Fiscal Year	2023
Vest Replacement Cycle 	5
Number of Officers	157
Number of Emergency Replacement Needs 	Number of Stolen or Damaged Number of Officer Turnover
	0 14

APPLICATION DETAILS

NIJ#	Quantity	Unit Price	Extended Cost	Tax Shipping and Handling	Total Cost
AXII	30	\$844.00	\$25,320.00	\$0.00	\$25,320.00
Grand Totals	30		\$25,320.00	\$0.00	\$25,320.00

AWARD SUMMARY FOR FY2023 REGULAR FUND

Funds Type	Eligible Amount	Award	Date Approved	Status
Regular Fund	\$25,320.00	\$12,660.00	10/02/23	Approved by BVP
Grand Totals:	\$25,320.00	\$12,660.00		

RETURN

ITEM 7.J

Resilient Florida Grant for Woodside Drainage Improvement Project

Request

Approval to pursue a Resilient Florida grant through the Florida Department of Environmental Protection (FDEP) for \$3,780,000.

Explanation

At present, the construction cost of the Woodside project is funded with a grant through the Florida Department of Economic Opportunity (FDEO) in the amount of \$3,400,000. During the design phase, the Engineer of Record updated the construction cost estimate, considering the material price escalation. Additionally, the scope of work was increased to include an additional Stormwater management facility to mitigate the existing flooding within the project limits that were not previously accounted for. The revised engineer's construction cost estimate is \$7,900,000.

Staff is requesting the City Commission's approval to apply for funding through the Resilient Florida grant. The funding application will benefit and improve the existing Woodside drainage by reducing the historical flooding within the Woodside project area. If the grant were to be awarded to the City, it would provide the City with an additional \$3,780,000 that will be used to fill the funding gap in the construction cost of the project. The Resilient Florida grant has no matching requirements. With this proposed funding, it will enable the project to move forward with the stormwater improvements necessary to reduce the current flooding for the residents.

Engineer's Construction Cost Estimate: \$7,900,000

Awarded FDEO Funding: \$3,400,000

Proposed FDEP Funding: \$3,780,000

City Contribution: \$720,000

The purpose of the Resilient Florida program is to effectively address the impacts of flooding and sea level rise that the state faces, providing eligible applicants with funding assistance to analyze and plan for vulnerabilities, as well as implement projects for adaptation and mitigation.

Recommendation

Approval to authorize staff to apply for a \$3,780,000 Resilient Florida grant through FDEP.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Public Works & Engineering

Presenter:

Attachment(s):

None

ITEM 7.K

Randolph Place - Final Plat (DRC# SR-22-0020)

Request

Approval of the final plat known as Randolph Place.

Explanation

The owner of the property, Gabriel Londono, is requesting final plat approval without a guarantee. The property is located south of June Street, north of King Street, east of North John Young Parkway and west of Randolph Avenue and is combining multiple underlying lots for development purposes. The subject property has frontage on improved roads and access to the necessary utilities.

Recommendation

Staff recommends approval of the final plat known as Randolph Place.

REQUESTED CITY COMMISSION ACTION:

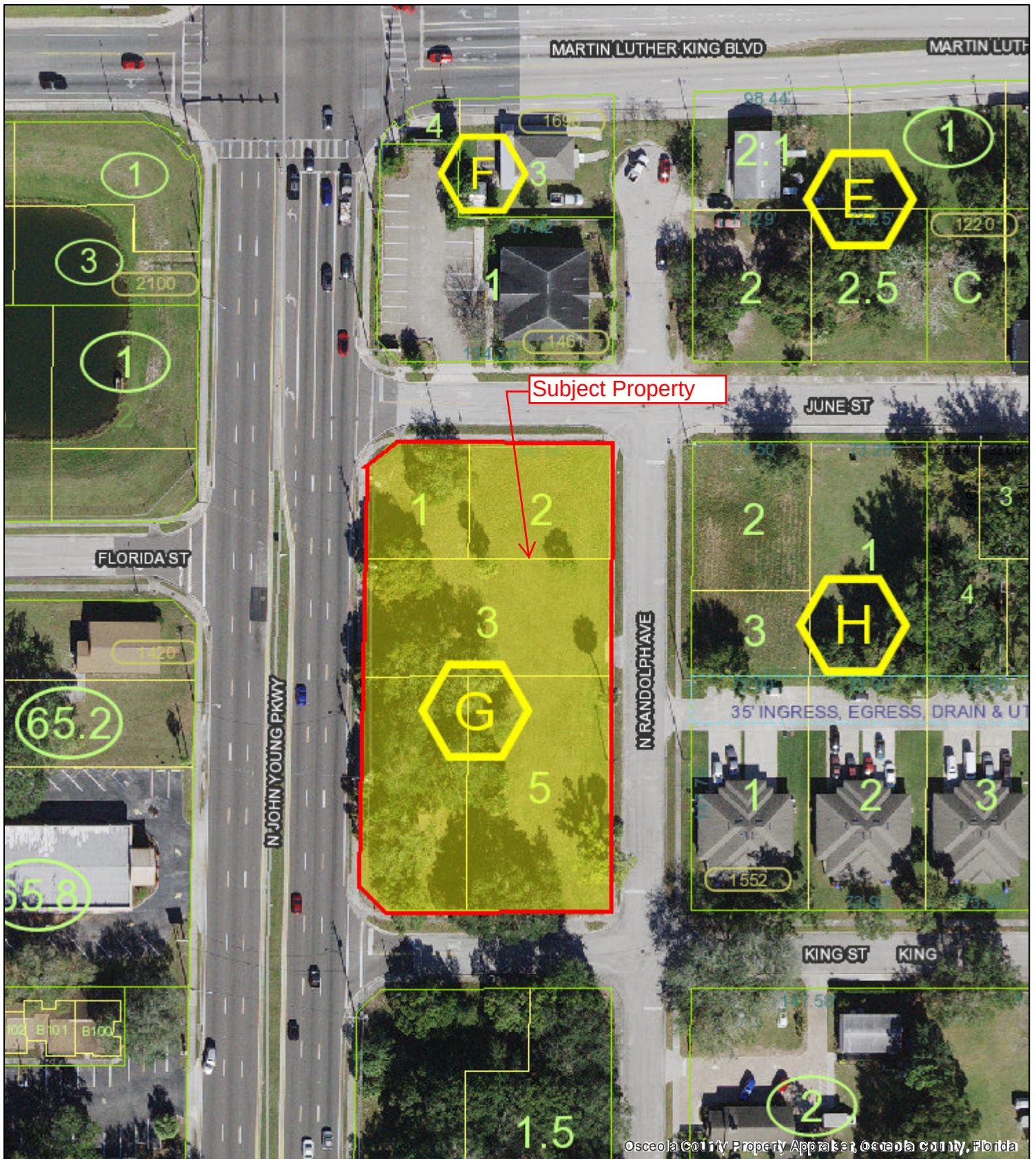
Approve

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. (S) SR-22-0020 - Randolph Place Plat
2. SR-22-0020 Randolph Place - VM



SR-22-0020 Randolph Place

Final Plat

Date Generated: 9/13/2023

0 40 80 ft



This map was prepared for the Osceola County Property Appraiser's Office. It is maintained for the function of this office only. It is not intended for conveyance, nor is it a survey.



Katrina S. Scarborough, CFA, CCF, MCF
Osceola County Property Appraiser

ITEM 7.L

Purchase of a Street Sweeper for Public Works Streets and Stormwater Division

Request

Public Works requests approval to purchase an Elgin Regen X Mid-Dump street sweeper from Environmental Products Group in the amount of \$309,139.

Explanation

Street sweeper activities are important in meeting Florida Department of Environmental Protection (FDEP) requirements per the National Pollutant Discharge Elimination System (NPDES). Sweepers are used as a frontline measure in removing pollutants before they enter the storm water system. This machine is used to complete a dedicated route to ensure compliance and also used for emergency events. Environmental Products Group is offering a new Elgin Regen X Mid-Dump sweeper from Environmental Products Group at a cost of \$309,139, which is within the approved capital budget.

The Fleet Maintenance division has reviewed the purchase in order to ensure compatibility and conformance to City standards. Procurement has also reviewed specifications to ensure competitive/comparative pricing via the Sourcewell contract, #093021-ELG.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
40945506-506494	SW2408	Decrease	309,500	309,139

Financial Summary:

Sufficient funds are available in the Stormwater Utility Fund in Project SW2408.

Recommendation

Staff recommends approval to purchase an Elgin Regen X Mid-Dump street sweeper from Environmental Products Group in the amount of \$309,139.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Public Works & Engineering
Presenter:

Attachment(s):

1. Proposal - Elgin RegenX Kissimmee 10052023
City of Kissimmee

2. RegenXBrochure

Proposal Summary

Prepared for:

City of Kissimmee



Elgin RegenX Mid-Dump Street Sweeper

Regen-X Regenerative Air Street Sweeper with 74 HP Auxiliary Engine

**City of Kissimmee
Public Works
Brian Champion
October 5th, 2023**

Elgin Street Sweepers

Environmental Products Group would like to thank you for the opportunity to present the following proposal on a new **Elgin RegenX Street Sweeper**.

Environmental Products Group is the sole provider of Elgin Street Sweeping Equipment in the State of Florida, as well as many other leading industry product lines including Vactor Sewer Cleaners, Envirosight Pipeline Inspection Cameras, Labrie Refuse Equipment, Petersen Grapple Loaders, PB Asphalt Pothole Patchers, Madvac Sweepers and Vacuums, and a host of parts, tools, and accessories for all your needs.

Environmental Products Group prides itself on our local parts, service, and training capabilities. With multiple full-service locations throughout Florida, Georgia, and Memphis, Tennessee; including Vactor, Elgin, and Envirosight repair centers, extensive parts inventory, factory-trained technicians, mobile parts and service, rentals, turnkey maintenance packages, leasing options, and much more... we are ready to service your every need.

EP Rents is a division of Environmental Products Group, EP Rents specializes in rental trucks when you need them. With a large inventory of Vactor Sewer Cleaners and Trailer Jetters, Elgin Sweeper, Envirosight Pipeline Inspection Cameras, Petersen Grapple Loaders. Call us for any of your rental needs.

Thank you for your consideration.

Product Description

- Tier 4F emissions, John Deere 4045 turbocharged diesel engine, 8 cubic yard tilting hopper w/ 50-degree dump angle, right and left side brooms, sweeper powder coated white with powder coated gray undercarriage and includes the standard features listed below

Standard Features

- Chassis Painted Standard White
- Sweeper Parts Manual
- Sweeper Operators Manual
- John Deere Operators Manual
- John Deere Parts Manual
- Broom measurement ruler
- Machine delivery packet
- Elgin safety manual
- Auto Shutdown, Aux. Engine: low oil pressure, high coolant temp, hydraulic oil level, fuel temp, intake manifold air temp, water-in-fuel, very high soot loading.
- Backup Alarm, electric
- Brooms, hydraulic rotation
- Brooms, Dual
- Console, w/rocker switches for all sweep functions
- Full gauge package including tachometer, engine hour meter, oil pressure indicator and coolant temperature. Engine speed control, side broom down pressure controls and automotive style blade fuses. Standard indicators for full load, screen down, and hydraulic oil temp indicator lamps. Optional indicator lamps for hopper up, door open and/or hydraulic oil temp.
- Sweep resume/sweep transport/reverse pick-up
- Fuel Water Separator on Aux Engine
- Hopper rear door, hydraulically opened/closed and locked/unlocked with external manual controls
- Hose, hydrant fill, 16'8" (5080 mm) with coupling
- LED Clearance Lights
- Lights; rear clearance and rear identification

- Pick-up head, hydraulically operated, 14" (355 mm) outside diameter pressure hose, 13" (324mm) inside diameter suction hose with quick disconnect on suctions side
- Water system; one (1) rocker switch with HI / LOW setting, Spray nozzles: three (3) in the suction, nozzle, three (3) at each side broom
- Side Broom Outer Position Stop
- Hydraulic Oil Cooler
- Vacuum enhancer, cable-controlled in cab, 5 settings
- Water tank, molded polyethylene, 250 gallons
- Water pre-filter, hydrant fill hose
- FUNCTIONAL CONTROL OF WATER SYSTEM dispenses water with the use of the sweeper function rocker switch. Water to pick-up head on when water is turned on, water to side brooms on when brooms are deployed.
- ANTI SIPHON 2-1/2" AIR GAP
- Standard Electric Horns
- Sweeper Painted Standard White
- Red Logo
- Standard 1 Year Parts and Labor Warranty

Additional Features

- (3) Spare Chassis Keys (Total of 4)
- (3) Spare Aux Engine Keys (Total of 4)
- In Cab Air Restriction Gauge for Chassis
- Variable Speed - Dual Sidebrooms
- Sidebroom Tilt Option Right Hand
- Sidebroom Tilt Option Left Hand
- Hopper Liner System with Lifetime Warranty
- Right Hand Inspection Door
- 25 ft. Fill Hose
- Front Spray Bar
- In-Cab Hopper Dump
- Dual Sidebroom Scrubbing Position
- High Pressure Washdown
- Dual Sidebroom Lights-LED
- Hydraulic Oil Level Gauge W/Thermometer on Tank
- Auxiliary Hydraulic Pump
- Idle Down / No Water
- Autolube System



- Rear LED Arrowstick
- Left Hand Toolbox
- Right Hand Toolbox
- 2.5 Lb Fire Extinguisher
- Sweeper Painted Blue – N0340
- Chassis Painted Blue – N0340
- Red Logo Decals Applied
- Sweeper Service Manual

Chassis Options

- Current Model Year Freightliner M2-106 Dual Steer Chassis
- RH & LH Bostrom Air High Back Seats
- Cummins B6.7 200 HP Engine
- Allison 2100 RDS Automatic Transmission
- AM/FM/CD Radio
- Left Hand Fender Mirror
- Right and Left Hand Heated and Remote-Controlled Mirrors
- LED Stop/Tail/Turn
- Maxion Wheels
- White Cab
- M2 Service Manual

Sourcwell Contract # 093021-ELG

City of Kissimmee – Sourcwell Member ID - # 44339

Total Sourcwell Price: \$309,139.00

***Quote is good for 30-days*

**** Pricing is subject to change without notice. Environmental Products Group (EPG) will make every effort to preserve the original price quoted but reserve the right to add any additional unforeseen surcharges levied by the manufactures from the date of order to the invoice date. EPG will provide documentation at the customer's request to validate any price increases and/or surcharges applied to order.*



<https://www.sourcewell-mn.gov/cooperative-purchasing/093021-ELG>

MODEL: REGEN X

EFFECTIVE DATE: 2/6/2023

SUPERCEDES ALL PREVIOUS PRICE LISTS
SOURCE WELL PRICE LIST (U.S. DOLLARS)

	Part Number	Elgin RegenX	LIST PRICE 2023	EXTENDED PRICE
1	1130001	Tier 4F emissions, John Deere 4045 turbocharged diesel engine, 8 cu. yard tilting hopper w/ 50 degree dump angle, right and left side brooms, sweeper powdercoated from powder coatings chart 2003/N with powder coated gray undercarriage and includes the standard features listed below	\$154,030	\$154,030
1	1125645	Freightliner M2 Chassis	\$103,760	\$103,760
1	1136105	Alts-Freightliner M2 Chassis 33K GVWR	\$3,585	\$3,585
		Standard Features		
		Description		
		Parts Manual		
		Operators Manual		
		John Deere Operators Manual		
		John Deere Parts		
		Broom measurement ruler		
		16' 8" Water fill hose		
		Machine delivery packet		
		Elgin safety manual		
		Auto Shutdown, Aux. Engine: low oil pressure, high coolant temp, fuel temp,		
		Backup Alarm, electric		
		Brooms, hydraulic rotation		
		Brooms, Dual		
		Camera, rear mounted		
		Console, w/rocker switches for all sweep functions		
		Full gauge package including tachometer, engine hour meter, oil pressure indicator and coolant temperature. Engine speed control, side broom down pressure controls and automotive style blade fuses. Standard indicators for full load, screen down, and hydraulic oil level indicator lamps.		
		Sweep resume/sweep transport/reverse pick-up		
		Fuel Water Separator on Aux Engine		
		Hopper rear door, hydraulically opened/closed and locked/unlocked w/ external		
		Hose, hydrant fill, 16'8" (5080 mm) with coupling		
		LED Clearance Lights		
		Lights; rear clearance and rear identification		
		Right hand 8" convex mirror		
		Pick-Up head camera		
		Pick-up head, hydraulically operated, 14" (355 mm) outside diameter pressure hose,		
		Water system; one (1) rocker switch with HI / LOW setting, Spray nozzles: three (3) in the suction,		
		Side Broom Outer Position Stop		
		Hydraulic Oil Cooler		
		Vacuum enhancer, cable-controlled in cab, 5 settings		
		Water tank, molded polyethylene, 250 gallons		
		Water pre-filter, hydrant fill hose		
		FUNCTIONAL CONTROL OF WATER SYSTEM dispenses water with the use of the sweeper function rocker switch. Water to pickup head on when water is turned on, water to		
		ANTI SIPHON 2-1/2" AIR GAP		
		Bolt-on 2 ply rubber fan housing liner		
		Optional Features		
	Part Number	Description	LIST PRICE 2023	EXTENDED PRICE
1	702472	REGENX SERVICE MANUAL	\$115	\$115
1	1131223	IN-CAB RIGHT HAND GUTTER BROOM TILT - NO DISPLAY	\$875	\$875
1	1131222	IN-CAB LEFT HAND GUTTER BROOM TILT - NO DISPLAY	\$875	\$875
1	1132709	***DUAL SIDE BROOM SCRUBBING POSITION provides additional switch on console to allow the side brooms to sweep inboard in front of the pickup head in the scrubbing position.	\$1,465	\$1,465
1	1130055	***IN-CAB HOPPER DUMP	\$1,515	\$1,515
1	1133498	HYDRAULIC OIL TEMPERATURE SHUTDOWN W/INDICATOR	\$210	\$210
1	1130042	RIGHT HAND INSPECTION DOOR	\$575	\$575
1	1130056	LIFELINER HOPPER SYSTEM W/WARRANTY	\$10,135	\$10,135
1	SPECIAL	PAINT SWEEPER NON RAL COLOR	\$4,405	\$4,405
3	6063004	ADDITIONAL IGNITION KEY - AUX ENGINE	\$55	\$165
1	1131236	AUXILIARY HYDRAULIC PUMP USE WITH IN-CAB HOPPER DUMP	\$1,450	\$1,450
1	1130043	LEFT HAND TOOLBOX	\$1,035	\$1,035
1	1130044	RIGHT HAND TOOLBOX	\$885	\$885
1	1032484	25' WATER FILL HOSE (ILO 16' 8")	\$270	\$270
1	1134452	VARIABLE SPEED -(HIGH/LOW) DUAL SIDEBROOMS FOR USE WITH AUX PUMP	\$1,070	\$1,070
1	1133700	HIGH PRESSURE WASHDOWN	\$5,295	\$5,295
1	1134112	IDLE DOWN NO WATER	\$510	\$510

	Part Number	Lighting Options	LIST PRICE 2023	EXTENDED PRICE
1	1130774	LED ARROWSTICK	\$750	\$750
1	1070639	LED/STOP/TURN/TAIL LIGHTS	\$810	\$810
1	1130046	LED SIDE BROOM LIGHTS	\$740	\$740
	Part Number	Chassis Options (*Some optional features are standard on other Elgin offerings)	LIST PRICE 2023	EXTENDED PRICE
1	704007	M2 SERVICE MANUAL	\$375	\$375
1	1063734	CAB PAINT	\$5,595	\$5,595
1	1080756	LEFT HAND FENDER MOUNTED MIRROR	\$865	\$865
3	1081188	EXTRA KEY - M2 CHASSIS	\$60	\$180
1	1081747	(2) BOSTROM AIR 905 CLOTH HI-BACK*	\$2,770	\$2,770
1	1081365	AIR RESTRICTOR GAUGE - LIGHT IN CAB	\$1,060	\$1,060
1	1130047	FRONT SPRAY BAR	\$910	\$910
1	1118356	2 1/2 LB. FIRE EXTINGUISHER	\$275	\$275
	Part Number	FREIGHT RATES - EFFECTIVITY DATE: 01/01/2022	LIST PRICE 2023	EXTENDED PRICE
1	FRT-104-010	FREIGHT-FL,LA,TX,NM,CO,WY,MT	\$5,395	\$5,395
	Part Number	UN-PUBLISHED OPTIONS	LIST PRICE 2023	EXTENDED PRICE
1	L0001	AUTOMATIC LUBRICATION SYSTEM - CHASSIS/BODY	\$6,750	\$6,750
		SUBTOTAL		\$318,700
1		SOURCEWELL-DISCOUNT	\$9,561	-\$9,561
		TOTAL		\$309,139

RegenX[®]



ELGIN
Subsidiary of Federal Signal Corporation



EASY TO USE, EASY TO MAINTAIN, **THE EASY CHOICE FOR YOUR OPERATION**

Rugged construction for years of dependable service. Innovative features to simplify operation and maintenance. Superior performance to get the job done right—the first time, with less effort and expense. These are the qualities Elgin has been building in its equipment since it introduced the world's first self-propelled, motorized street sweeper in 1914.

Today, you will find all of these advantages in the Elgin RegenX regenerative air street sweeper. The product of years of development with input from municipal and contract customers, sweeper operators, service technicians and project supervisors, the RegenX delivers superior performance day in and day out.

As you explore its features, you will understand why we offer the RegenX with an industry leading one-year, unlimited hours warranty.





A SMARTER DESIGN TAKES PRODUCTIVITY TO NEW HEIGHTS

The RegenX features a roll-off dump height of 56" (142.24 cm) with a 50° dump angle and 8 yd³ (6.11 m³) hopper. This level of performance can help you avoid double-handling and driving back to a facility to dump. You can increase efficiency even more by placing roll-off containers along your route. All of this saves you time, effort, expense, and fuel costs.

EASY-TO-CLEAN HOPPER

To make cleaning faster and easier the RegenX hopper features:

- Rounded corners for easy cleaning and better load evacuation
- Self-deploying dust separator evacuates dust when hopper is dumped
- Easy access dust separator washout doors
- Simple inlet design with deflector loads debris evenly simplifying washout





A SIMPLER DESIGN MEANS GREAT SAVINGS FOR YOU

Throughout the design of the RegenX you will find performance advantages that improve productivity, reduce downtime, simplify maintenance, and enhance operator performance—all to help you create a cleaner environment for your community. RegenX performance advantages include:

- Overall simpler design with fewer moving parts
- Bolt-on parts in key areas (like the dust separator and hopper inlet) for easier servicing
- Easy access to all service and maintenance components
- Convenient switches for faster operation
- Water level indicator visible from side mirror while operating
- Dual quick disconnect on suction tube for easy maintenance and access to obstructions
- Extended steel suction tube for improved material flow
- Adjustable rear bumper for efficient offloading into containers
- Adjustable hopper door locks for proper seal



SUPERIOR SIDE BROOM FOR ENHANCED CLEANING

To provide superior cleaning action, the RegenX broom features:

- Innovative in-cab pneumatic float for adjustable side broom pressure
- Elgin's unique trailing arm design provides inward motion to avoid obstacles
- Standard parallelogram linkage allows side brooms to closely follow road contours and maintain a consistent broom tilt angle with the road surface



DESIGNED TO HELP OPERATORS DO MORE WITH LESS EFFORT

The best technology makes our lives and our work easier. That is why the RegenX has been designed for operators of all levels.

It has easy-to-master controls with no control modules, simple operation, and simplified maintenance. The result is higher productivity with less downtime, and a short learning curve for operators. With the RegenX, operators can focus on their work, not the controls, bringing added safety to every job. Advantages include:

- Simplified controls with preset throttle adjustments that can be made on the fly
- The ability to change from sweep to transport mode with the flip of a switch
- Simple dump controls
- Expedited, easier washout and cleanup
- Fast, easy access to maintenance and service points



RegenX[®]

INNOVATION AT WORK

A closer look at the Elgin RegenX reveals innovative design features, systems, and components that not only simplify operation and improve performance but also make maintenance and servicing faster and easier. The result is the optimal efficiency of your operations, as you reduce maintenance requirements and downtime. The RegenX brings you an array of innovative systems including:



Pickup Head

Our exclusive pickup head features a convenient port that allows you to totally clean out the head while the unit stays clean and dry.



Dust Separator

The high-efficiency dust separator features a centrifugal design that spins air at a high speed, isolating dust into a self-emptying collection chamber that evacuates as the hopper is dumped.



Fan Drive

Our high-performance, low-maintenance fan drive system allows for belt changes in less than five minutes with no tools required.



OUR COMMITMENT TO QUALITY ONLY BEGINS WITH OUR EQUIPMENT

The Elgin RegenX is manufactured in an ISO 9001 certified, advanced industrial plant with over 208,000 sq. ft. (19,350 sq. m.) of space. We employ the latest technology to build the most reliable equipment, including high-precision laser cutters, efficient, accurate computer numerical controls, and a sophisticated powder coating system.

When you build a quality product you can back it up with a full one-year, unlimited hours warranty. Elgin also backs up your investment with superior local service and support. Our goal is to keep your machine—and your entire operation—up and running.

The RegenX can be customized to your unique requirements to meet local standards and regulations by means of a broad selection of configurations, options and accessories.

Through our international dealer network, we maintain a vast inventory of spare parts and offer fast shipment to any region of the world.

Altogether, the rugged, reliable Elgin RegenX is easy to operate, easy to maintain, and an easy choice when you are looking for quality equipment that is built to last.



RegenX Truck Mounted Regenerative Air Sweeper Specifications

Auxiliary Engine	Fan Drive System	Electrical System	Dust Control System	Sweep System	Pick-up Head
John Deere 4045T Tier 4 Horsepower: 74 hp (55 kw) @ 2400 RPM Torque: 224 ft.-lb. (304 Nm) @ 1600 RPM 4-cylinder, turbocharged diesel High temperature and oil pressure automatic shutdown	Hardox Steel Fan Sealed-for-life bearings Fluid coupler Spring-loaded belt tensioner Keyed and tapered pan shaft	Heavy-duty, waterproof electrical connectors and color-coded wires with functional identification Wire harnesses include protective braiding	265 gal (1003 L) polyethylene water tank Heavy duty nozzles 2 water pumps with run dry capability High and low selectable pump speed In-cab low water visual and audible alarm	High performance regenerative air Sweeping path: 12 ft. (365.8 cm) Side brooms diameter: 42 in. (106.7 cm)	Length: 90 in. (2,286 mm) Area: Approx. 2,700 in. ² (17,420 cm ²) Hose Pressure: 14 in. (355 mm) Hose Suction: 13 in. (330 mm)

Sold in skids for local mounting on a large selection of chassis brands

RegenX[®]

POWERFUL VERSATILE SIMPLY BETTER

The RegenX regenerative air street sweeper is brought to you by Elgin, the company that introduced the first motorized street sweeper more than a century ago. Today, Elgin is part of Federal Signal, an international company with fifteen manufacturing facilities. Its broad range of quality equipment is sold all around the world.

The RegenX is a product of the vast resources of Elgin and Federal Signal. Innovative in design, rugged in construction, RegenX offers you advanced technology that delivers:

- Easy controls for operators at all levels
- Simplified maintenance to maximize uptime
- Greater efficiency in even the most demanding applications
- An industry leading warranty
- Strong, local service and support



Elginsweeper.com

Elgin Sweeper • 1300 W. Bartlett Road • Elgin, IL 60120 USA
Phone 847-741-5370

Specifications subject to change without notice. Some products shown with optional equipment. RegenX[®] is a registered trademarks of Elgin Sweeper.

Products may be covered by one or more United States Patents and/or pending patent applications.

Elgin Sweeper is a subsidiary of Federal Signal Corp. | Federal Signal Corp. is listed in the NYSE by the symbol FSS.

Effective Date 01/23

P/N 0705430-C

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ITEM 7.M

Amendment to Drainage and Retention Pond Easement for the Epoch Phase 3 Development (DRC# 21-00085)

Request

Approval of an Amendment to Drainage and Retention Pond Easement between CRP/EPOCH FLORA RIDGE MF II OWNER, L.L.C. ("Grantor") and CITY OF KISSIMMEE, FLORIDA ("Grantee").

Explanation

The original Drainage Agreement, dated July 16, 2004, was executed between the Grantee and Kelley Properties. This drainage agreement granted a non-exclusive stormwater drainage easement over certain real property owned by Kelley Properties for the purpose of accommodating stormwater runoff from Dyer Boulevard into retention ponds constructed on Kelley Properties' land. Following approval of this drainage agreement, construction of the stormwater management facility (pond) was completed.

Subsequently, a portion of the real property subject to the agreement has been conveyed to CRP/EPOCH FLORA RIDGE MF II OWNER, L.L.C., the "Grantor." The Grantor has developed the property and expanded the stormwater retention pond to accommodate both the roadway and the development runoff along with water quality requirements, as approved by the City.

This Amendment highlights the connection between the "Grantor" and the expanded stormwater retention pond on the Grantor Property, specifically designed to accommodate the roadway and development. It ensures the continued effectiveness of the Drainage Agreement for the remaining real property encumbered by the easement.

Recommendation

Staff recommends approval of the Amendment to Drainage and Retention Pond Easement between CRP/EPOCH FLORA RIDGE MF II OWNER, L.L.C. and CITY OF KISSIMMEE, FLORIDA.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Public Works & Engineering

Presenter:

Attachment(s):

1. (S) Epoch Phase 3 Amendment to Drainage and Retention Pond Easement
2. Vicinity Map

Prepared by and when
recorded mail to:
R. Travis Rentz
Godbold, Downing, Bill & Rentz, P.A.
222 W. Comstock Avenue, Suite 101
Winter Park, Florida 32789

AMENDMENT TO DRAINAGE AND RETENTION POND EASEMENT

THIS AMENDMENT TO DRAINAGE AND RETENTION POND EASEMENT (the "Amendment") is made on this _____ day of November, 2023 by and among **CRP/ EPOCH FLORA RIDGE MF II OWNER, L.L.C.**, a Delaware limited liability company ("Grantor"), whose address is 359 Carolina Ave., Winter Park, Florida 32789 ("Grantor") and **CITY OF KISSIMMEE, FLORIDA**, a political subdivision of the State of Florida ("Grantee"), whose address is 101 N. Church Street, Kissimmee, Florida 34741.

RECITALS:

1. Grantee and Kelley Properties, a Florida general partnership ("Kelley Properties"), executed that certain Drainage and Retention Pond Easement dated July 16, 2004, and recorded in Official Records Book 2578, Pages 2007, Public Records of Osceola County, Florida (the "Drainage Agreement").

2. The Drainage Agreement granted a non-exclusive stormwater drainage easement over and across certain real property owned by Kelley Properties that was located on both sides of Dyer Boulevard for purposes of accommodating stormwater runoff from Dyer Boulevard into retention ponds construction on the Kelley Properties.

3. Kelley Properties has since conveyed a portion of the real property subject to the Drainage Agreement to Grantor, which certain real property is identified on ***Exhibit "A"*** attached hereto ("Grantor Property").

4. The Grantor Property includes the portion of the Kelley Properties real property that was subject to the Drainage Agreement and identified as "Parcel 6" on ***Exhibit "A"*** to the Drainage Agreement.

4. In connection with the development of the Grantor Property, Grantor expanded the stormwater retention pond that was located within "Parcel 6" in order to accommodate additional drainage requirements pursuant to approvals granted by the City.

5. As a result, Grantor and Grantee desire to partially amend ***Exhibit "A"*** to the Drainage Agreement by deleting the legal description for "Parcel 6" and substituting in its place

and stand the new "Parcel 6" legal description as reflected on ***Exhibit "B"*** attached to this Amendment.

NOW, THEREFORE, in consideration of the mutual benefits to be realized by the parties and for \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated herein.
2. Amendment to Drainage Easement. Grantor and Grantee hereby agree that the legal description for "Parcel 6" contained in ***Exhibit "A"*** to the Drainage Agreement is hereby deleted in its entirety and substituted for the legal description of the newly expanded "Parcel 6" as set forth on ***Exhibit "B"*** to this Amendment. Grantee here quit claims and releases to Grantor any and all right, title and interest that Grantee has in the original "Parcel 6" as described in ***Exhibit A*** of the original Drainage Easement.
3. Binding Effect. All terms and provisions of this Amendment are binding upon the parties hereto and their respective successors and assigns and all rights, privileges, benefits and burdens created hereunder are covenants running with title to the Grantor Property, binding upon and inuring to the benefit of the parties hereto and their respective successors and assigns. This Amendment shall be recorded among the Public Records of Osceola County, Florida. Nothing herein contained is intended nor shall it be construed to release or affect the validity of the Drainage Easement, or any other rights, terms and conditions contained in the Drainage Easement, as to the remaining real property encumbered by said Drainage Easement.
4. Notices. Any notices to be delivered between Grantor and Grantee shall be hand delivered or mailed by certified mail, return receipt requested, to the parties at the addresses set forth above, or at such other addresses as the parties may hereafter specify in writing.
5. Ratification. Except as modified herein, the Drainage Agreement remains unchanged and is in full force and effect. In the event of a conflict between the terms and provisions of this Amendment and the Drainage Agreement, the terms and provisions of this Amendment shall control and be given effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

SIGNED, SEALED, AND DELIVERED
IN THE PRESENCE OF:

CITY OF KISSIMMEE:

By: _____
Mayor

Approved as to form and legality:

Date: _____

By: _____
City Attorney

Attest by: _____
City Clerk

Date: _____

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [check one]: (____) physical presence; or (____) online notarization, this _____ day of October, 2023, by _____, as _____ for City of Kissimmee, Florida, who [check one]: () is personally known to me or () has produced _____ as identification.

Notary Public
Printed Name: _____
Commission Number: _____
Commission Expiration: _____

IN WITNESS WHEREOF, the Seller hereto executes this document on the date and year written below its signature.

WITNESSES:

[Signature]
Witness # 1

Print Name: JUSTIN R. SAND

[Signature]
Witness # 2

Print Name: Yasmin Crawford

GRANTOR:

**CRP/EPOCH FLORA RIDGE MF II OWNER,
L.L.C., a Delaware limited liability company**

By: [Signature]

Print Name: Allyson Chiappa

Its: Authorized Signatory

Address: 359 Carolina Avenue, Suite B
Winter Park, FL 32789

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of [check one]: (☒) physical presence; or (☐) online notarization, this 11 day of October, 2023, by Allyson Chiappa, as Authorized Signatory for CRP/EPOCH FLORA RIDGE MF II OWNER, L.L.C., a Delaware limited liability company, on behalf of the company, who [check one]: (☒) is personally known to me or (☐) has produced _____ as identification.

[Signature]

Notary Public

Printed Name: Nicole Sabatino

Commission Number: HH 268754

Commission Expiration: 5/26/2026

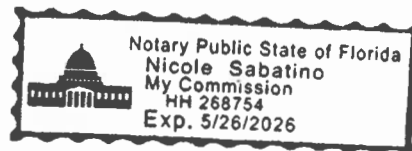


Exhibit "A"
Grantor Property

Lot 3, EPOCH FLORA RIDGE, according to the Plat thereof, as recorded in Plat Book 27, Pages 148-153, inclusive, Public Records of Osceola County, Florida.

SKETCH & DESCRIPTION – NOT A SURVEY

LEGAL DESCRIPTION-DRAINAGE AND RETENTION POND EASEMENT:

A PARCEL OF LAND BEING PART OF LOT 3, EPOCH FLORA RIDGE AS RECORDED IN PLAT BOOK 29, PAGES 148-151 OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, LOCATED IN SECTION 05, TOWNSHIP 25 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE SOUTHERLY MOST CORNER OF LOT 3, ACCORDING TO THE RECORDED PLAT OF ECHO FLORA RIDGE, AS RECORDED IN PLAT BOOK 27, PAGES 148-151 OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA; SAID POINT ALSO BEING ON THE EASTERLY RIGHT OF WAY OF DRYER BOULEVARD; THENCE NORTH 35°50'59" EAST ALONG SAID EASTERLY RIGHT OF WAY, A DISTANCE OF 420.45 FEET; TO A POINT OF CURVATURE OF A NON TANGENT CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1,489.89 FEET AND A CHORD WHICH BEARS NORTH 35°10'20" EAST AND A DISTANCE OF 35.17 FEET; THENCE CONTINUE ALONG SAID EASTERLY RIGHT OF WAY AND ALONG SAID CURVE TO THE LEFT A DISTANCE OF 35.17 FEET; THENCE LEAVING SAID RIGHT OF WAY SOUTH 59°43'10" EAST, A DISTANCE OF 113.87 FEET; TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 25.00 FEET AND A CHORD WHICH BEARS NORTH 75°30'18" EAST, A DISTANCE 35.22 FEET; THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT, A DISTANCE OF 39.07 FEET; THENCE NORTH 30°43'46" EAST, A DISTANCE OF 90.64 FEET; THENCE SOUTH 64°42'46" EAST, A DISTANCE OF 78.89 FEET; THENCE NORTH 25°29'27" EAST, A DISTANCE OF 56.92 FEET; THENCE SOUTH 57°44'13" EAST, A DISTANCE OF 39.59 FEET; THENCE NORTH 60°15'47" EAST, A DISTANCE OF 9.08 FEET; THENCE SOUTH 79°44'13" EAST, A DISTANCE OF 113.37 FEET; THENCE SOUTH 67°44'13" EAST, A DISTANCE OF 45.82 FEET; THENCE SOUTH, A DISTANCE OF 23.01 FEET; THENCE SOUTH 39°31'57" EAST, A DISTANCE OF 49.56 FEET; THENCE SOUTH 00°09'30" WEST, A DISTANCE OF 195.43 FEET; THENCE SOUTH 81°51'10" WEST, A DISTANCE OF 54.52 FEET; THENCE NORTH 79°18'11" WEST, A DISTANCE OF 232.30 FEET; THENCE SOUTH 59°26'58" WEST, A DISTANCE OF 158.09 FEET; THENCE SOUTH 45°20'21" WEST, A DISTANCE OF 245.31 FEET TO A POINT ON THE SOUTHERN BOUNDARY OF OFFICIAL RECORD BOOK 2578, PAGE 2007; THENCE NORTH 57°22'52" WEST ALSO SAID SOUTHERN BOUNDARY, A DISTANCE OF 207.23 FEET; TO THE POINT OF BEGINNING.

CONTAINING 200,402.09 SQUARE FEET OR 4.60 ACRES, MORE OR LESS.

SURVEYOR'S NOTES

1. BEARINGS SHOWN HEREON ARE GRID BASED ON THE FLORIDA EAST TRANSVERSE MERCATOR STATE PLANE COORDINATE SYSTEM NAD83 DATUM (2011 ADJUSTMENT) AND THE EASTERLY RIGHT OF WAY LINE OF DYER BOULEVARD; AS BEING NORTH 35°50'59" EAST.
2. THIS IS NOT A SURVEY.
3. THE SIDELINES OF SAID EASEMENT ARE TO BE EXTENDED OR TRIMMED TO MEET THE PROPERTY AND SHALL NOT ENCROACH INTO ANY BUILDINGS OR STRUCTURES.

Harry B. Rogers II, PSM Date
Florida Professional Surveyor & Mapper No. LS6418
for Hamilton Engineering and Surveying, Inc.
Certificate of Authorization No. LB 8405

Not valid without the signature and the original raised seal or the unique signature and the digital seal of a Florida Licensed Surveyor and Mapper.

DRAWING NOT VALID
WITHOUT ALL SHEETS



HAMILTON
ENGINEERING & SURVEYING, LLC

FLORA RIDGE PHASE III
DRAINAGE AND RETENTION POND EASEMENT

3409 W LEMON ST
TAMPA, FL 33609
TEL: 813.250.3535

LB #8405 CA #8474
www.HamiltonEngineering.US

2400 N FORSYTH ROAD UNIT 106
ORLANDO, FL 32807
TEL: 407.362.5929

SECTION TOWNSHIP RANGE JOB NUMBER

05-25S-29E

03746.0C05

DRAWN BY:

HBR

DATE

10/06/2023

SHEET

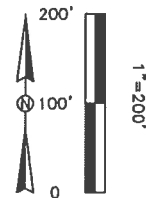
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SKETCH & DESCRIPTION - NOT A SURVEY

RECORDED EXISTING EASEMENT
OR 2578, PG 2007

BALLPARK ROAD

LOT 3
EPOCH FLORA RIDGE
PLAT BOOK 27, PAGES 148-151
PARCEL ID: 05-25-29-1381-0001
OWNER: CRP/EPOCH
RIDGE OWNER MFII LLC



POINT OF BEGINNING
SOUTHWESTERLY MOST
CORNER OF LOT 3

DYER BOULEVARD
ORB 2564, PAGE 2910

EASTERLY R/W
(BEARING BASIS)

DRAINAGE AND POND
EASEMENT

SOUTHERN BOUNDARY
OF OR. 2578, PG 2007

LOT 3
EPOCH FLORA RIDGE
PLAT BOOK 27, PAGES 148-151
PARCEL ID: 05-25-29-1381-0001
OWNER: CRP/EPOCH
RIDGE OWNER MFII LLC

CURVE TABLE

CURVE#	DELTA	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	1°21'09"	1489.89'	35.17'	N 35°10'20" E	35.17'
C2	89°33'04"	25.00'	39.07'	N 75°30'18" E	35.22'

LINE TABLE

LINE#	DIRECTION	LENGTH
L1	N 35°50'59" E	420.45'
L2	S 59°43'10" E	113.87'
L3	N 30°43'46" E	90.64'
L4	S 64°42'46" E	78.89'
L5	N 25°29'27" E	56.92'
L6	S 57°44'13" E	39.59'
L7	N 60°15'47" E	9.08'
L8	S 79°44'13" E	113.37'
L9	S 67°44'13" E	45.82'
L10	S 00°00'00" E	23.01'
L11	S 39°31'57" E	49.56'
L12	S 00°09'30" W	195.43'
L13	S 81°51'10" W	54.52'
L14	N 79°18'11" W	232.30'
L15	S 59°26'58" W	158.09'
L16	S 45°20'21" W	245.31'
L17	N 57°22'52" W	207.23'

Legend:

POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING
COF	CLEAR OF FOUNDATION
FDOT	FLORIDA DEPARTMENT OF TRANSPORTATION
LB	LICENSED BUSINESS
PC	POINT OF CURVATURE
PI	POINT OF INTERSECTION
LS	LICENSED LAND SURVEYOR
LLC	LIMITED LIABILITY COMPANY
No	NUMBER
PB	PLATBOOK
ORB	OFFICIAL RECORD BOOK
PG	PAGE
PSM	PROFESSIONAL SURVEYOR AND MAPPER
R/W	RIGHT-OF-WAY
SEC	SECTION

NOT VALID
WITHOUT ALL SHEETS



HAMILTON
ENGINEERING & SURVEYING, LLC

FLORA RIDGE PHASE III
DRAINAGE AND RETENTION POND EASEMENT

3409 W LEMON ST
TAMPA, FL 33609
TEL: 813.250.3535

LB #8405 CA #8474
www.HamiltonEngineering.US

2400 N FORSYTH ROAD, UNIT 106
ORLANDO, FL 32807
TEL: 407.362.5929

SECTION TOWNSHIP RANGE JOB NUMBER
05-25S-29E 03746.0005

DRAWN BY:
HBR

DATE
10/06/2023

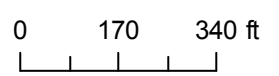
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Amendment to Drainage and Retention Pond Easement for the Epoch Phase 3 Development

DRC# 21-00085

Date Generated: 10/18/2023



This map was prepared for the Osceola County Property Appraiser's Office. It is maintained for the function of this office only. It is not intended for conveyance, nor is it a survey.



Katrina S. Scarborough, CFA, CCF, MCF
Osceola County Property Appraiser
Page 487 of 631

ITEM 7.N

Budget Adjustment to the State Housing Initiatives Partnership (SHIP) Funds

Request

Approval of a budget adjustment to the State Housing Initiatives Partnership (SHIP) fund in the amount of \$19,004.72.

Explanation

The City received additional revenue from its SHIP program as a result of a program participant's passing away before the maturity date of the loan. The paid off loan was for the rehabilitation of the property located at 310 Dolphin Street, Kissimmee 34744. The original mortgage amount was \$48,407 and the property has a ten (10) year lien. According to the program, the property has to be maintained as affordable housing and can not be transferred, conveyed, sold, or leased for a period of ten (10) years. Since the owner passed away before the required time, the City received \$19,004.72 as a prorated share of the outstanding loan amount.

The revenues received from the sale of the property must be allocated to the appropriate account - other contractual services - in order for the City to use the funds to carry out eligible SHIP activities in the future.

A satisfaction of mortgage will be prepared and given to the City Manager for his signature.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
11200335	335500	Increase	\$19,004.72	
11225103	503434	Increase	\$19,004.72	

Financial Summary:

There is no fiscal impact to the general fund since this is a grant-funded project.

Recommendation

Approval of a budget amendment to the State Housing Initiatives Partnership (SHIP) fund in the amount of \$19,004.72.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Development Services

Presenter:

City of Kissimmee

Attachment(s):

None

ITEM 7.0

First Addendum of Janitorial Services contract with Halo Building Services

Request

Approval of first addendum to the existing janitorial services contract with Halo Building Services to increase the annual amount by \$22,672.

Explanation

The City entered into contract with Halo Building Services on September 27, 2022, for janitorial services citywide.

Due to inflation and overall cost increase, Halo Building Services is requesting a 10% increase to their annual invoice for employee wages and other cost increases. As a result, their annual fee will go from \$226,724 to \$249,396.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
10140103-503435		Decrease		\$12,902
40945503-503435		Decrease		\$4,254
41145713-503435		Decrease		\$3,986
41145723-503435		Decrease		\$1,941
4617010-503435		Decrease		\$14,626
56045603-503435		Decrease		\$211,689

Financial Summary:

Adequate funding is available in the General Fund and Enterprise Funds (Building, Airport, Stormwater, Solid Waste, Weld Shop, and Facilities) budgets for this revised contract cost.

Recommendation

Approval of the first addendum to the existing janitorial services contract with Halo Building Services in the amount of \$22,672, bringing the new contract total to \$249,396.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Public Works & Engineering
Presenter:

Attachment(s):

City of Kissimmee

1. (S) First Addendum To Agreement

FIRST ADDENDUM TO AGREEMENT

THIS FIRST ADDENDUM TO AGREEMENT, made and entered into this 30 day of October, 2023 by and between the CITY OF KISSIMMEE, a municipal corporation of the State of Florida, 101 Church Street, Kissimmee, Florida, 34741, hereinafter referred to as "City" and HALO BUILDING SERVICES, whose business address is 4902 Alavista Drive, Orlando, Florida, 32837, hereafter referred to as "Contractor" and each represents as follow:

WITNESSETH:

WHEREAS, The City of Kissimmee and Contractor have heretofore executed an Agreement dated September 27, 2022, attached hereto as Exhibit "A", hereinafter referred to as "Original Agreement" pursuant to which the Contractor is to provide janitorial services for all premises listed in the Original Agreement; and

WHEREAS, the Parties now desire to enter into this First Addendum in order to modify, amend and/or supplement certain terms and conditions of the Original Agreement, as hereinafter provided.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Section 17 of the Original Agreement is hereby amended as follows:

The City hereby removes the contact person listed to receive notices and will add the following contact:

Ashley Willis, Public Works Director

2. The costs of services listed in "Bid IFB2022-007" is hereby modified as follows:

The monthly costs of services will be increased to \$20,783 beginning October 01, 2023. This is an increase of \$1,889.35 to the current monthly rate of \$18,893.65.

Except as hereby amended, the Original Agreement and all terms contained therein shall remain in full effect and binding through the term of the contract.

[Signature page to follow]

HALO BUILDING SERVICES

[Signature]

STATE OF FLORIDA)

COUNTY OF Orange)

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 30 day of October, 2023, by Angel Luis Curbelo as Halo Building Services, "Contractor", a Florida corporation, who is personally known to me or has produced identification.

Notary Seal:



JOHN F. CANO
Notary Public
State of Florida
Comm# HH19535(1)
Expires 11/4/2025

[Signature]
Notary Public, State of Florida

CITY OF KISSIMMEE, FLORIDA

Mayor – Commissioner

ATTEST:

City Clerk

Approved as to form and legality:

City Attorney

AGREEMENT between CITY OF KISSIMMEE

And

Halo Building Services

THIS AGREEMENT is made this 27th day of September, 2022 between the CITY OF KISSIMMEE, a municipal corporation of the State of Florida, 101 Church Street, Kissimmee, Florida 34741, hereinafter "CITY" and **Halo Building Services**, whose business address is 4902 Alavista Drive, Orlando, Florida, hereinafter "CONTRACTOR" and each represents as follows:

WITNESSETH

WHEREAS, The City advertised an Invitation to Bid Number IFB2022-007 for Janitorial Services; and

WHEREAS, Contractor provides janitorial services in the Central Florida area and was the lowest responsive bidder; and

WHEREAS, The City desires to award Bid Number IFB2022-007 to Contractor consistent with the terms and conditions and requirements of the bid specifications.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and value considerations, the receipt and sufficiency of which I 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.** Contractor agrees to provide janitorial services in accordance with the Janitorial Services Schedule and Specifications attached hereto as Exhibit "A" and incorporated herein.
3. **PREMISES.** Contractor agrees to provide these services for the Central Services Complex, Public Works Division; Traffic Department, Weld Shop, Streets, Drainage, Sanitation, Facilities Maintenance, Trailer Class Room, KPD gun range, Civic Center, Oak Street Community Center, Chambers Park Community Center, Orange Gardens Community Center, Fortune Road Athletic Complex, Durbin Park at Lakeside, Park Operations Center and Rose Hill Cemetery. Attached hereto as Exhibit "B" are the estimated square foot specifications for each location
4. **WORKMANSHIP and WARRANTY.** Contractor agrees to furnish all material, labor, equipment and tools necessary to provide janitorial services in accordance with the Purchase Order, Janitorial Services Proposal, and this Agreement. Contractor agrees to provide these services in a professional manner in accordance with the standards outlined in the Invitation to Bid Documents. Contractor shall supervise the performance of work by employees who shall present a favorable image for the City at all times when working on City property.

5. **TERM.** The term of this Agreement shall be for a thirty-six (36) month period from October 1, 2022 through September 30, 2025, unless sooner terminates as permitted herein. This Agreement may, by mutual written consent of the parties, be extended for an additional twenty-four (24) month period.
6. **PAYMENT.** The City agrees to pay Contractor ----- on a monthly basis upon receipt of an invoice. Invoices shall provide details of all project expenses permitted in this Agreement. Upon review and approval of the Contractor's invoice and verification that services have been rendered in conformity with this Agreement, the City, through payment issued by the Development Services Department, 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, including lost profit, to the effective date of termination.
7. **INSURANCE.** Contractor shall furnish the City with a performance contract bond and a labor and material bond each in the amount of 60,865.00. Contractor is required to submit to the City Certificates of Insurance naming the City of Kissimmee as an additional insured. Said Certificate of Insurance shall also provide that at least thirty (30) days written notice shall be given to the City. During the term of the Agreement and any renewals, Contractor at their sole cost and expenses shall maintain insurance coverage as follows:
 - A. **Workers Compensation:** The Contractor will provide Worker's Compensation coverage for all employees at the site location. The limits will be statutory for Worker's Compensation and \$300,000.00 for Employers' Liability.
 - B. **Comprehensive General Liability:** The Contractor will provide coverage for all owned and non-owned vehicles for limits of not less than \$1,000,000.00.
 - C. **Comprehensive Automobile Liability:** The Contractor will provide coverage for all owned and non-owned vehicles for limits of not less than \$1,000,000.00.
 - D. **Umbrella Insurance:** The Contractor will provide an umbrella in excess to the coverage in paragraphs B), and C) of not less than \$1,000,000.00.
8. **PURCHASE ORDERS.** The City may issue subsequent modifications to the Purchase Order(s) for additional work that was not known or included in the Specifications that is found to be needed during the work on the Project to complete the Project over and above the amount set forth in Exhibit A. Consultant must seek approval from the City before performing any additional work. The City must provide the Consultant written documentation of the modification to the Purchase Order within three (3) business days of verbal approval. Contractor is not obligated to perform additional work until written modification has been received from the City, but may commence work based upon a reasonable assumption that written modification will be issued. Incidental additional work performed by the Contractor without City consent will be evaluated and considered for payment based upon the work's merit. If the City determines the incidental additional work was not included in the original scope of the project and required for the

Contractor's uninterrupted performance in fulfillment of the contract, then the City will approve the Contractor's request for payment for incidental additional work.

9. **TERMINATION FOR CONVENIENCE.** The City reserves the right to terminate the Agreement in whole or part by giving the vendor written notice at least thirty (30) days prior to effective date of termination. Upon receipt of termination from the City, the vendor shall only provide those services specifically approved or directed by the City. All other rights and duties of the parties under the Agreement shall continue during such notice period, and the City shall continue to be responsible to the vendor for the payment of any obligation to the extent such responsibility has not been excused by breach or default of the vendor.

Upon termination, vendor shall bill the City of Kissimmee for all amounts not previously billed and due to the vendor at that time. The vendor shall not be entitled to a profession fee nor expenses for any work commenced or expenses incurred after the notice of termination was received by the vendor, unless specifically approved or requested by the City of Kissimmee. The vendor shall however, be entitled to payment for services commenced and approved by the City of Kissimmee prior to receipt of notice, or with the expressed written consent of the City of Kissimmee, prior to the effective date of termination.

10. **TERMINATION FOR CAUSE.** If City wishes to terminate the Contractor for cause due to the failure of Contractor to perform as required under this Agreement and/or in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances, then the City must provide the Contractor with written notice of said failure to perform. The City must give ten (10) working days from the Contractor's receipt of the Notice to Cure for the Contractor to cure or take reasonable action to commence to cure the performance concerns specified. If the Contractor does not take appropriate action within the ten (10) day period, the City may issue a Final Notice to Cure. The Contractor will have an additional five (5) working days from the receipt of the Notice to Cure to cure or take reasonable action to commence to cure before the City can terminate the Agreement. If the Contractor is terminated for cause, the Contractor may provide or employ any necessary labor and materials in lieu of Contractor to finish part or all of the work under the Agreement or to supplement the work of Contractor, and to deduct the cost thereof from any money, then due or thereafter to become due to the Contractor; and if such cost shall exceed the balance due to Contractor, then the Contractor shall pay the difference to the City.

11. **INDEMNIFICATION.** To the extent permitted by law, Contractor. hereby releases and waives all claims against the City, its officers, employees, agents, independent Contractors for any injury or damaged to the person, property, or business of Contractor. agents, employees, sub-contractors, or other persons, for which injury or damaged results from any act, neglect, occurrence, or condition in or about any City properties whether such damage is caused by the City or any other person. Nothing in the agreement shall be construed as a waiver of the City's statutory sovereign immunity pursuant to Section 768.28, Florida Statutes.

Contractor agrees to indemnify and hold harmless the City, its agents, officers, employees against any and all claims, demand, cost, and expenses of every kind and nature, including reasonable attorney fees for the

enforcement, defense, or appeals thereof arise from Contractor performance of the Agreement or any breach or default of Contractor.

12. **BREACH.** Failure of Contractor or the City to perform the covenants, conditions, or provisions of the Agreement shall constitute a material default and breach of the Agreement. In the event of any default, the City has the right to terminate this Agreement immediately without notice to Contractor. In the event of any default of the City, except the payments required under the Agreement, Contractor may terminate this Agreement immediately without notice. If the City fails to timely pay the monies required under this Agreement, it has fifteen (15) days after written notice from Contractor to cure said default, unless the City disputes satisfactory performance of services.
13. **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.
14. **APPLICABLE LAWS.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Florida.
15. **JURY TRIAL WAIVER/VENUE/WAIVER OF ATTORNEY FEES.** Contractor agrees to waive the right to a jury trial in any action, proceeding, or counterclaim. Venue shall be Osceola County, Florida. Each party waives the right to attorney fees in any action to enforce this Agreement.
16. **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.
17. **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:

Natrevia L. Gradney-Mitchell, Public Works Director
101 N. Church Street
Kissimmee, Florida 34741

Notice to Contractor:

Angel Curbelo, President
Halo Building Services
4902 Alavista Drive
Orlando, FL 32837Kissimmee, Florida 34741

18. **ENTIRETY OF AGREEMENT.** This Agreement 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.
19. **MODIFICATIONS.** Any modifications or additional obligations assumed by either party shall be binding only if written and valued considerations exchanged.

Signature page to follow

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed:

CONTRACTOR.

By: [Signature]

Title: President

Date: 9-19-22

STATE OF FLORIDA)
COUNTY OF Osuola)

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 19th day of September, 2022, by Angel Urbelo as Halo building Services of Contractor, a Florida corporation, who is personally known to me or has produced identification.

Notary Seal:

Notary: [Signature]

Print Name: Gabrielle Mejia

My Commission Expires: 06/10/2023



CITY OF KISSIMMEE

By: [Signature]

Mayor- Commissioner

Date: 9/27/2022

ATTEST:

[Signature]
Linda Hansell, City Clerk

Approved as to form and legal sufficiency:

[Signature]
City Attorney

EXHIBIT A

Normal cleaning hours will be after 5 PM Monday through Friday for these facilities, Central Services, all Public Works facilities.

GENERAL SPECIFICATIONS:

Those services such as stripping and waxing or work requiring closing of the building may be done on Saturday with prior approval from the City. The successful bidder must have at least one (1) employee in City Hall daily before 5 PM to perform duties which must be completed before scheduled meetings such as Commission Meetings. The City Managers Department receptionist can provide information on any scheduled meetings. The employee must check floor areas in meeting rooms and restrooms in areas scheduled for use to ensure wastebaskets are emptied, toilet tissue holders are full, table tops are clean and dusted, and the area is presentable for meetings or other scheduled functions. No cleaning near the area of any meeting room will take place until the meeting is complete and participants have departed.

D. The Community Centers (Durbin Lakeside Park, Orange Gardens Community Center, Fortune Road, Civic Center, Chambers Park and Oak Street) may be entered after 9:00 PM pending program and event schedules. There may be special events or activities that occur in the Department facilities that may require a special cleaning schedule. On those days or nights, the Department Facility manager will notify the provider at least 24 hours in advance of the event to discuss the cleaning requirements for the vent and to negotiate any additional fees resulting from this special cleaning.

E. The successful bidder will provide all labor, equipment, and supplies including paper towels, toilet tissue, urinal and commode deodorants, toilet seat covers, and any other supplies as set forth in the attached Schedule of Services, and/or any other items necessary to perform services satisfactorily. The successful bidder must utilize the current dispensers in all City facilities and these may be proprietary. Batteries for fragrance dispensers will be provided. The successful vendor is also responsible for the re-supply and maintenance of female sanitary products vending machine, inclusive of collection of monies from the machines.

F. The Contractor is responsible for turning off all lighting and securing controlled areas before leaving the building.

FREQUENCY OF AREAS TO BE CLEANED:

- The following sites will be cleaned Monday – Friday.

Civic Center, Oak Street Community Center, Chambers Community Center, Central Services Complex, Public Works facilities.

SCHEDULE OF SERVICES – ALL FACILITIES – (unless otherwise indicated)

A. EACH VISIT:

- Sweep and clean all non-carpeted floors, damp mop tile areas.
- Vacuum all carpeted areas thoroughly (baseboard to baseboard), to include corners and under furniture.

- Empty all trash cans, including the larger trash cans under stairwells and change liners as needed (if contaminated).
- Put all trash in dumpsters.
- Empty and clean all ashtrays at entrances (exterior).
- Fill all soap dispensers full.
- Fill all hand towel dispensers full.
- Fill all toilet tissue dispensers full.
- Clean and mop all restrooms thoroughly, disinfect and place deodorant. This includes cleaning tiled walls, doors, and cabinets.
- Dust all windows in offices and hallways including Venetian blinds.
- Clean window sills.
- Spot clean carpet when noticeable stains are evident.
- Clean all water fountains thoroughly.
- Clean door knobs with a department germicidal detergent.
- Dust all desk tops if requested.
- Dust all wall items in hallways and offices, including high dusting.
- Dust all counter tops and chairs.
- Clean and mop all stairs, stairwells, and elevators thoroughly.
- Clean any employee break rooms, including tables and sinks, under couches/chairs, sweep and mop floors.
- Clean all entrance store front doors and windows inside and out.

WEEKLY:

- Clean and polish all desks, tables, and counter tops.
- Dust all office furniture.
- Remove all cobwebs from all office hallways, windows and ceiling areas to include all high dusting.

- Wax and buff all tile area with a non-slip wax.

QUARTERLY:

- Machine scrub all tiled common areas.
- Clean, strip, wax, and buff all tile areas.
- Remove all wax build-up in corners and along baseboards.

SCHEDULE OF SERVICES – INDIVIDUAL FACILITY SPECIAL REQUIREMENTS:

KISSIMMEE CIVIC CENTER- 201 E. Dakin Ave.: Priority cleaning days – Thursday, Friday, Saturday, Sunday and Monday morning preferable between the hours of 9:00pm – 8:00am. Adheres to City recycling schedule, blue bins should be emptied into recycling dumpster.

A. Daily

Arena

- Dust mop arena floor
- Spot clean arena floor
- Empty all trash receptacles
- Spot clean arena doors and windows (as needed)

Lobby

- Dust mop lobby floor
- Wash all lobby windows
- Clean drinking fountains
- Run floor machine in lobby

Kitchen

- Dust mop kitchen floor
- Wipe down all stainless steel items
- Clean and sanitize Sinks

- Empty all trash receptacles and replace liners
- Mop floor as needed
- Clean and refill soap dispensers
- Clean and refill paper towel dispensers

Mezzanine / Balcony

- Dust mop floors
- Empty trash
- Spot clean glass doors and windows (as needed)

All Restrooms and Locker rooms

- All showers in both locker rooms to be cleaned and sanitized daily.
- Clean and sanitize Sinks
- Clean and sanitize urinals and toilets
- Check and restock toilet paper dispensers
- Clean mirrors
- Clean and refill soap dispensers
- Clean and refill paper towel dispensers
- Check air fresheners
- Wipe down all splash marks on walls
- Empty all trash receptacles and replace liners
- Empty and disinfect sanitary receptacles
- Sweep and Mop floors
- TNT Locker Room Showers monthly.
- TNT Locker Room floors monthly.

B. Weekly

- Polish all stainless steel in restrooms. Kitchen and concessions
- Wipe down internally lit signs in lobby, stairwell and hallways
- Dust pictures and plants in East hallway
- Wipe down swinging doors in ballrooms
- Wash counter tops concessions and lobby
- Run floor machine in mezzanine / balcony floors upstairs
- Clean all window surfaces

Fitness Center

- Dust TV's
- Sweep and mop floors
- Clean Mirrors
- Wash windows

C. Monthly

- Clean and polish refrigerators in Kitchen and concessions
- Burnish Arena Floor
- Dust tray ceiling in all ballrooms
- Machine scrub all tile common areas

D. Quarterly

- Whole facility needs to be deep cleaned.

E. Yearly

- Strip and wax all hallways, kitchen, concession and lobby floors.

PUBLIC WORKS FACILITIES –

Traffic – 2205 Mabbette St., Streets – 2213 Mabbette St., Weld Shop – 2215 Mabbette St., Drainage – 2213 Mabbette St., Sanitation – 2201 Mabbette St.

Normal cleaning hours will be after 5 PM Monday through Friday for all Public Works facilities. The cleaning procedure will be limited to all Common (public areas) areas and all restrooms in the facility each visit. The offices of all Public Works Facility will be cleaned bi-weekly following the specifications under section A, as described for each visit.

CHAMBERS PARK COMMUNITY CENTER – 2380 N. Smith Street:

Cleaning of this facility will be Monday through Friday nights after 9pm. The cleaning procedure will be limited to all Common (public areas) areas and all restrooms in the facility each visit. Vacuum and clean the meeting rooms, library and office areas so the entire building is cleaned daily.

OAK STREET COMMUNITY CENTER – 717 N. Palm Ave.

Cleaning of this facility will be Monday through Friday nights after 9pm. The cleaning procedure will be limited to all Common (public areas) areas and all restrooms in the facility each visit. All rooms including the Kiddie Korner room will be cleaned, including:

- Clean and dust all fans and blades as needed.
- Vacuum and clean the meeting rooms, library and office areas so the entire building is cleaned daily.

ORANGE GARDENS COMMUNITY CENTER – 1114 George Street.

- Facility to be swept/mopped and general cleaning 2-3 times a week
- Areas included are the large meeting room, restrooms and stage.

PARK OPERATIONS CENTER – 20 Lakeview Drive.

- Common areas cleaned 2 times each week. This includes all breakrooms, all office areas, and kitchen area.

FORTUNE ROAD ATHLETIC COMPLEX – 2500 Fortune Road

- Facility to be vacuumed and generally cleaning 2 times a week. This includes upstairs areas- large meeting room, office areas, restrooms, and hallways.

DURBIN PARK at LAKESIDE – 2253 Lakeside Drive

- Facility to be vacuumed and general cleaning 2-3 times a week, areas included should be the large meeting room, office, kitchen and the entire building.

ROSE HILL CEMETERY – 1615 Old Boggy Creek Road

- Facility in to be vacuumed and general cleaning 2-3 times a week, areas included should be the common area and large meeting room, 2 offices and 2 restrooms.

FACILITIES MAINTENANCE – 104 N Alaska Avenue

- To be cleaned five days a week, Monday – Friday
- Bathroom – unisex
- Sweep and mop floor spot clean
- Clean/sanitize sink and toilet
- Clean mirror
- Clean and refill dispensers, soap, toilet, paper towels, toilet seat covers,
- Empty all garbage cans and replace liners
- Spot clean where needed, wipe down all splash marks/dirt on walls
- Dust, mop/vacuum floor
- Clean drinking fountain

City Clerk's Office Processing Form

RECEIVED BY
CITY OF KISSIMMEE

SEP 21 2022

CITY CLERK'S OFFICE
Do not write in this box.

Date: 09/21/2022

Requestor's Name: Robert Masiku Department: PW&E

Phone/Extension: x2509

Type of Document: 1-Contract

Project Name: Citywide Janitorial and Custodial Services for various City facilities

Number of Originals/Copies: 1. 1-Contract

Requested Processing: (Please check all that apply)

X Agenda Date: 09/27/2022 Item # 2022-3614 (i.e. # 2019-1102)

X Sign and Return – (please circle) CA / CM / Mayor / City Clerk / Notary

☐ Recording with Clerk of the Courts

☐ Vault Retention

☐ Laserfiche Scan and Retain

M.E.

Comments:

Return document to: PW&E
(Department)

Lindsay Goodin
(Staff)

Number of originals/copies to be returned: 2 (1)

----- To be completed by the Clerk's Office -----

Processed by: tenegao Date: 10/4/22

☒ Complete; no additional action necessary. ☐

☐ Please returned fully executed original to the City Clerk for scanning. Thanks.
10-07-2019.revisions1

ITEM 7.P

Sale of vacant land located at 504 Canterbury Lane

Request

Approval of the sale of 504 Canterbury Lane and authorize the City Manager or his designee to sign all transactional documents.

Explanation

Approximately fifteen years ago, the City acquired 504 Canterbury Lane through Code Enforcement and Unsafe Abatement actions. At a neighborhood meeting held after a developer showed interest in the property to build a cottage development, it was determined that selling the property for an infill single family home was the best course of action for the City.

The City entered a contract with Goodwin Realty to represent the City on the property in question. Based on a recently completed appraisal and market analysis, the asking price for the property was set at \$165,000.

A buyer was found and an offer of \$162,000 was accepted pending Commission approval. The potential buyer is planning to build a single-family home for their family. The proceeds of the sale will be used to build an affordable owner-occupied home on a City-owned lot located elsewhere in the City.

The property is a 3/4 acre vacant lot within the Canterbury Terrace neighborhood. The neighborhood is located between Clyde Avenue and Lake Toho. This lot is adjacent to Lakeview Drive and is within walking distance of Lakefront Park and Downtown Kissimmee.

Recommendation

Approve the sale of 504 Canterbury Lane and authorize the City Manager or his designee to sign all transactional documents.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Development Services

Presenter:

Attachment(s):

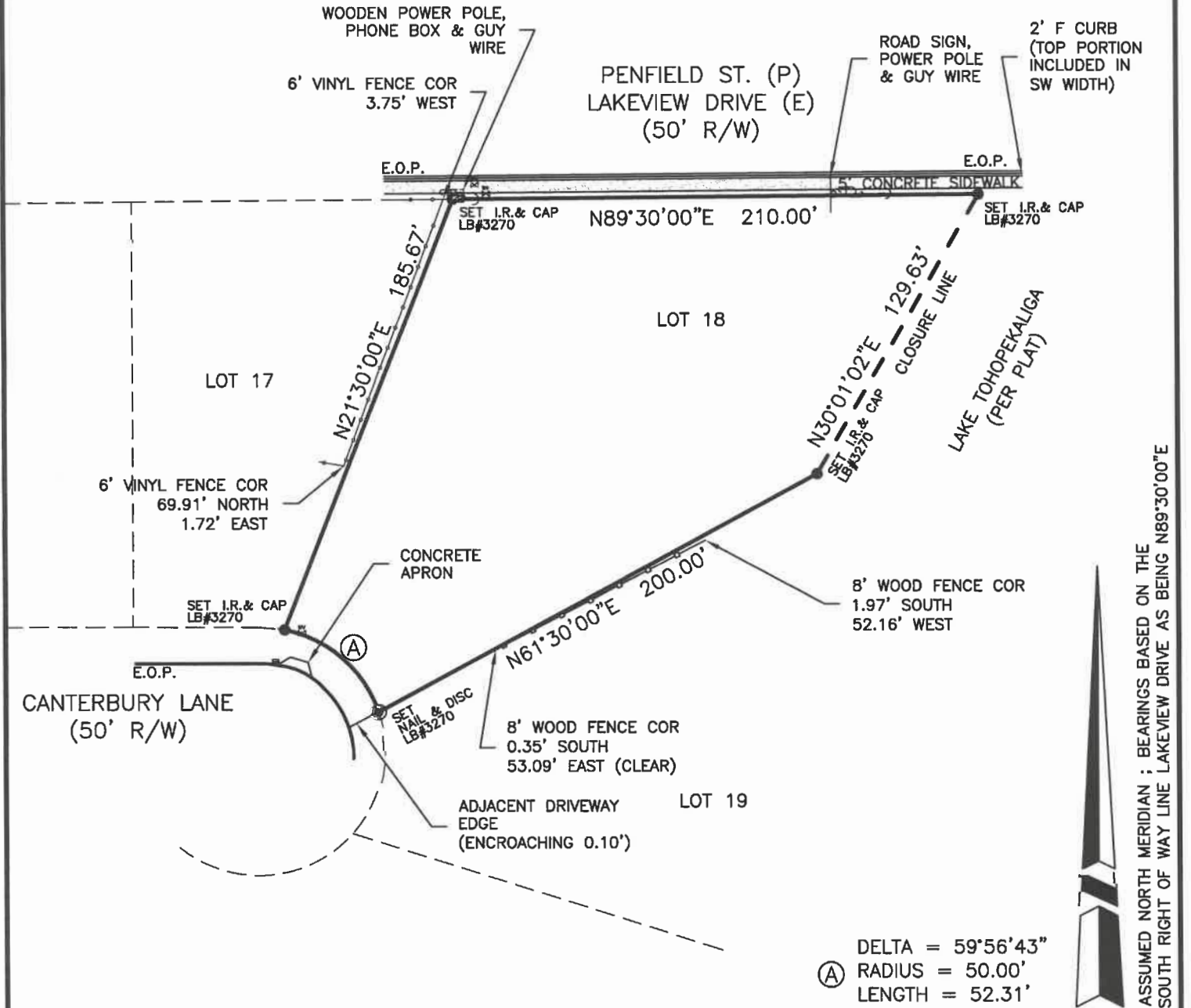
1. Survey of 504 Canterbury Lane

PLAT OF SURVEY

LEGAL DESCRIPTION:

LOT 18 BLOCK A, CANTERBURY TERRACE, AS RECORDED IN PLAT BOOK 1, PAGE 305, OF THE OFFICIAL RECORDS OF OSCEOLA COUNTY, FLORIDA.

NOTE: According to the Federal Emergency Management Agency Firm Map No. 12097C0066G Community No. 120190, effective JUNE 18, 2013, this property appears to be located in Zone "X" (unshaded), an area determined to be outside the 0.2% annual chance floodplain.



A.P.V. = ASSOCIATION OF POINCIANA VILLAGE
B.O.C. = BACK OF CURB
CATV = CABLE TELEVISION BOX
C.B.S. = CONC BLOCK STRUCTURE
C.B. = CHORD BEARING
CC = CREW CHIEF
C.H. = CHORD
C.L.F. = CHAINLINK FENCE
C.M. = CONCRETE MONUMENT
C.P. = CONCRETE PIPE
CONC = CONCRETE
D = DRAINAGE
E.O.P. = EDGE OF PAVEMENT
EL = ELEVATION
ESMT = EASEMENT
F.B. = FIELD BOOK
FBS = FORM BOARDS

FE = FINISH ELEVATION
F.F. = FINISH FLOOR
FND = FOUND
HWA = HANSON, WALTER & ASSOCIATES
I.D. = IDENTIFICATION
I.P. = IRON PIPE
I.R. = 5/8" IRON ROD
L = LENGTH OF CURVE
LL = LOOSE LEAF
LB = LICENSED SURVEYING BUSINESS
N&D = NAIL AND DISC
N.R. = NON-RADIAL
N.T.S. = NOT TO SCALE
O/S = OFFSET
O.R. = OFFICIAL RECORD
P.B. = PLAT BOOK
P.C. = POINT OF CURVATURE

P.C.C. = POINT OF COMPOUND CURVE
P.C.P. = PERMANENT CONTROL POINT
PE = PROPOSED ELEVATION
P.I. = POINT OF INTERSECTION
PLS = PROFESSIONAL LAND SURVEYOR
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
P.R.C. = POINT OF REVERSE CURVE
PP = POWER POLE
PRM = PERMANENT REFERENCE MONUMENT
P.T. = POINT OF TANGENCY
PG = PAGE
R = RADIUS
R.P. = RADIUS POINT
RES. = RESIDENCE
RGE = RANGE
RLS = REGISTERED LAND SURVEYOR
R/W = RIGHT OF WAY

SW = SIDEWALK
SEC = SECTION
SQ.FT. = SQUARE FEET
T = TANGENT LENGTH OF CURVE
T.O.B. = TOP OF BANK
TWP = TOWNSHIP
U = UTILITY
UG = UNDERGROUND
CL = CENTERLINE
Δ = DELTA (CENTRAL ANGLE)
(C) = CALCULATED DATA
(D) = DEED DATA
(L) = LEGAL DESCRIPTION DATA
(M) = MEASURED DATA
(P) = PLAT DATA
(E) = EXISTING

ARV = AIR RELEASE VALVE
BOV = BLOW OFF VALVE
BOLLARD
CB = CABLE BOX
CATV
2X4 CURB INLET
DRAINAGE MANHOLE
ELECTRIC BOX
FIRE HYDRANT
GAS VALVE
GUY WIRE
IRRIGATION VALVE
LIGHT POLE
MAIL BOX
PHONE BOX
UTILITY/POWER POLE
RECLAIMED WATER VALVE
CLEANOUT
SANITARY MANHOLE
SANITARY VALVE
SIGN POST
TRANSFORMER PAD
UTILITY BOX
WATER METER
WATER VALVE
WELL

No Underground Installations or Improvements Have Been Located Except as Noted.
The Surveyor Has Not Abstracted The Lands Shown Hereon For Easements, Rights Of Way And Restrictions, If Any.
Elevations Refer To National Geodetic Vertical Datum Of 1929, unless otherwise noted. Do Not Use Building Ties to Construct Deed or Platted Lines. There may be additional restrictions and/or easements that are not recorded on this plat of survey that may be found in the Public Records of this county.
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

House Model		BLDG. Permit No.		Address 504 CANTERBURY LANE		Project #	
Scale 1"= 30'	Sec.	Twsp.	Rng.	Revisions	F.B./PG.	C.C.	Date By
Survey Type	Survey Date	CC	Field Book	Page	By		
Boundary	09-19-23				ML		
Site Plan							
Form Boards							
Foundation							
Boundary/Final							



Hanson, Walter & Associates, Inc.
Engineering, Surveying and Planning
8 BROADWAY, SUITE 104, KISSIMMEE, FL 34741-5708 (407)847-9433
SURVEYING CERTIFICATE OF AUTHORIZATION #3270
ENGINEERING CERTIFICATE OF AUTHORIZATION #3265



I hereby certify that the survey represented hereon has been prepared in accordance with the Standards of Practice as set forth in Chapter 5, 17, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

John M. Hughes, PSM #6367

Date Signed 9/27/23

ITEM 7.Q

Projects to be Carried Forward to FY 2023-2024

Request

Approval to increase the FY 2023-2024 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 FY2023-2024 budget. To expedite the carry forward process, staff has prepared the carry forward schedule based upon expenditures and transfers posted as of September 30, 2023. 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, 2023.

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 2023

CITY OF KISSIMMEE
PROJECTS TO BE CARRIED FORWARD TO FY 2022-2023

**REQUESTED
CARRYOVER NOT
TO EXCEED**

PROJECT	PROJECT TITLE	ACCOUNT	OBJECT	
AP2103	Comprehensive Airfield Security-Pha	46170106	506393	26,441
AP2201	Airport Master Plan	46170106	506393	9,400
AP2302	Air Traffic Ctl Tower	46170106	506393	13,580
AP2305	Taxiway D Design	46170106	506393	72,390
CM2200	Citywide Camera Expansion (6)	00110106	506393	8,690
CM2303	Citywide Security Improvement	00110106	506393	155,211
CM2311	Field Camera	00110406	506494	5,200
CM2318	LETf City-Wide Security Enhancement	00110106	506393	19,292
CM2320	High Water Rescue Vehicle	00110706	506494	17,595
CM2321	Rapid Deployable Comm Device	56060106	506494	54,860
CM2321	Rapid Deployable Comm Device	00110706	506494	61,429
CR2204	PIONEER PROJECT INCENTIVE PRO	10725508	508282	300,000
CR2206	Beautification and Storm Water Proj	10725506	506393	202,009
CR2207	Toho Square Parking Garage Sign	10625506	506393	41,778
CR2300	Toho Sq Pk Garage Enhancemts	10625506	506292	150,000
CR2301	Mann St Land Acquisitn&Const	10625506	506191	200,000
CR2302	Legacy Project	10625506	506393	1,600,000
CR2304	Land Acquisition - Columbia	10725506	506191	200,000
CS2253	Lakeside Community Park Roof Modula	56045606	506393	14,075
CS2255	Central Services Genterator	56045606	506393	37,500
CS2256	3/4 Ton Pick-up Truck	56045606	506495	39,800
CS2257	Police Department Standby Generator	56045606	506494	51,915
CS2259	City Hall Generators	56045606	506393	140,000
CS2260	Police Department Roof Replacement	56045606	506393	157,800
CS2306	Fire Station 14 Gate Motor	56045606	506494	8,252
CS2307	Police Department Elevator	56045606	506393	5,209
CS2308	Communications Elevator	56045606	506393	9,353
CS2311	Police Department Gate Motor	56045606	506494	16,504
CS2313	Fuel Island Fluid Protective Finish	56045606	506393	29,252
CS2314	City Hall Elevators	56045606	506393	40,000
CS2316	Central Svc Generator	56045606	506494	62,500
CS2317	Fortune Rd Ath Comp Roof Repl	56045606	506393	75,000
CS2320	City Hall Generator 800kw	56045606	506494	78,856
CS2323	Shop Awning	56045706	506393	170,000
CS2336	Install South Gate Central Services	56045606	506393	35,670
CS2337	GUTTER REPLACEMENTS	56045606	506393	5,226
CS2338	FS#13 Gate Motor Replacement	56045606	506393	18,389
CS2341	Civic Center Vinyl Awning Inst.	56045606	506393	5,100
DS1908	Enterprise Resource Planning	10140106	506494	41,748
DS2120	PEDESTRIAN SAFETY IMPROVEMENTS	00125106	506393	123,022
DS2121	Radio Base Station	10140106	506494	7,000
DS2206	Permitting Service Center	10140106	506292	215,164
DS2213	Beaumont Project	35925506	506393	189,869
DS2310	UTILITY VEHICLE	10140106	506495	36,000
DS2311	PORTABLE RADIO (4)	10140106	506494	9,555
FD2106	3/4 Ton Pick-up Truck	00135106	506495	6,770
FD2256	Firefighting Ventilation Fan	00135206	506494	17,286
FD2257	Machine Rescue Kit	00135206	506494	10,100
FD2304	Commercial Treadmill	00135206	506494	5,000
FD2305	LifePak Mount (5)	00135206	506393	6,500
FD2311	Self Contain Breath Apparatus	00135206	506494	285,000
GT1907	Neptune Road Improvements - Design	10345656	506393	66,519
GT2005	Intelligent Transportation System	10345656	506393	53,583
GT2109	Neighborhood Street Light Infill Pr	10345656	506393	45,955
GT2110	Intelligent Transportation System	10345656	506393	50,000
GT2212	Thacker Avenue/Patrick Street Traff	10345406	506393	600,600
GT2215	Intelligent Transportation System	10345656	506393	50,000
GT2217	West Oak Street at John Young Parkw	10345656	506393	8,717
GT2301	Controller w/Communication(2)	10345406	506494	8,000
GT2302	Traffic Counter	10345406	506494	12,000

GT2303	Cabinet/Controller 8 Phase	10345406	506494	15,735
GT2304	Data Line Connection	10345406	506494	25,000
GT2305	Rapid Flash Beacon Modem (28)	10345406	506494	42,504
GT2306	Traffic Signal Detection Syst (4)	10345406	506494	140,000
GT2307	Armstrong at Columbia Signal	10345406	506393	400,000
GT2309	Cargo Trailer	10345646	506494	20,000
GT2310	3/4 Ton Pick-up Truck	10345646	506495	40,947
GT2311	Neighborhood St Light Infill	10345656	506393	10,000
GT2312	W Oak St at John Young Pkwy	10345656	506393	68,160
GT2313	Harbin Parking Lot Modification	10345656	506393	90,000
MF1700	Emory Canal Trail	10945656	506393	5,121
MF2300	Hoagland Blvd: US 192/Carroll	10945656	506393	4,172,639
pd2223	Electronic Parking Tickets	00130206	506494	20,000
PD2316	Mobile Digital Computer (38)	00130206	506494	7,411
PD2317	Vehicle (17)	00130206	506495	81,314
PD2337	K9	00130206	506393	15,000
PD2338	CAU Computer and Screen Upgrades	00130406	506494	7,000
PD2339	History Wall	00130206	506393	15,551
PR1838	Cremation Garden Phase 2	00150506	506393	85,010
PR1951	Oak Street Playground Safety Surfac	00150206	506393	40,000
PR2145	Batwing Tractor	00150206	506494	6,280
PR2225	Pressure Washer Trailer	00150206	506494	15,000
PR2226	Dually Pick-up Truck	00150206	506495	35,000
PR2227	Loader	00150206	506494	35,000
PR2228	Arena Floor Protection System	00150666	506393	40,000
PR2303	Sidewalk Replacement	00150206	506393	10,000
PR2308	Backstop/Fence Repair	00150206	506393	275,000
PW1523	Carroll/Dyer	35545206	506393	52,446
PW1524	Carroll/Dyer	35545206	506393	38,188
PW1734	SCRT PH-1B South Construction Proje	35745656	506393	83,129
PW1916	Traffic Control Pre-Emption/Opticom	00145406	506494	7,406
PW1925	Variable Message Board	00145406	506494	19,500
PW2017	1 1/2 Ton Pick-up Truck with Flat B	00145406	506495	27,851
PW2024	Video Imaging Vehicle Detection Sys	00145406	506494	17,900
PW2025	Station 12 Traffic Light	00145406	506393	130,000
PW2222	Data Line Connection	00145406	506393	80,000
PW2304	Copier	00145206	506494	5,000
PW2308	Copier	00145306	506494	5,589
PW2309	Rectangular Rapid Flash Beacon	00145406	506494	6,500
PW2322	OFFICE FURNITURE	00145406	506393	7,897
PW2323	FLOORING FOR TRAFFIC BUILDING	00145403	504646	7,480
RI2300	SCRT Land Acquisition	10550706	506191	438,384
RI2301	SCRT Trail Construction	10550706	506393	271,396
RI2303	Lancaster Ranch Park	10550706	506393	128,294
SA2204	Refuse Project	41145716	506494	621,203
SA2301	1/2 Ton Pick-up Truck	41145716	506495	24,000
SA2302	Flooring	41145716	506393	29,000
SA2304	Bulk Truck (2)	41145716	506495	552,000
ST1621	Lakefront Park	35545206	506393	592,843
ST1717	KPD Training Facility	10430106	506393	270,264
ST2003	Fiber Connectivity	10460106	506393	60,807
ST2003	Fiber Connectivity	03260106	506393	21,218
ST2007	LED Message Board (2)	10445606	506393	53,080
ST2014	Lancaster Ranch Park	10450106	506393	138,869
ST2015	Enterprise Resource Planning	10460106	506393	5,030
ST2116	Central Services Bus Parking paving	10445606	506393	15,818
ST2117	Berlinsky Community House	10445606	506292	1,324,989
ST2117	Berlinsky Community House	10445606	506292	15,000
ST2118	Neighborhood Improvement Program	10445206	506393	77,502
ST2202	Neighborhood Improvement Program	10445206	506393	46,259
ST2209	Fire Station 15	10435106	506292	475,650
ST2214	Fire Station 11 Bay LED Lights	10445606	506393	7,749
ST2215	RUBA PARK LATRINE REPLACEMENT	10445606	506393	14,291
ST2216	Pavilion	10450106	506393	40,000
ST2220	Outfit Sign Truck	10445406	506495	50,200
ST2301	Pavilion-Pub Safety Train Ctr	10435106	506292	400,000

ST2302	Fire Station 15	10435106	506292	5,709,626
ST2303	Rescue	10435206	506494	51,516
ST2303	Rescue	10435206	506495	14,021
ST2305	Neighborhood Improv Program	10445206	506393	150,000
ST2306	ADA Compliance Program	10445206	506393	1,297,027
ST2306	ADA Compliance Program	10445206	506393	415,027
ST2308	Burner System	10445406	506494	80,000
ST2309	Finish Batwing Mower	10450106	506494	11,835
ST2310	Articulating Front End Loader	10450106	506494	60,000
ST2311	Break Water Repairs	10450106	506393	300,000
ST2312	Mark Durbin Recreation Center	10450106	506292	200,000
ST2314	GIS Implementation	10460106	506393	83,929
ST2315	Wide Area Network	10460106	506393	114,023
ST2316	Back Office Licensing	10460106	506393	7,344
ST2317	Wide Area Network	10460106	506494	282,239
SW1827	Woodside Drainage Improvements	40945206	506393	193,101
SW1914	Mill Slough Restoration	40945206	506393	1,404,550
SW2028	Terra Condos Drainage	40945206	506393	150,000
SW2122	Slip-line Program	40945506	506393	505,496
SW2118	Lyndell Drainage Improv	40945206	506393	139,101
SW2304	Data Collection System	40945206	506494	6,800
SW2307	Stage Meter (2)	40945206	506494	10,835
SW2308	Velocity Meter	40945206	506494	20,169
SW2311	Optical Sensor (8)	40945206	506494	14,993
SW2312	Woodside Drainage Improv	40945206	506393	446,459
SW2313	Stormwater System Improv	40945206	506393	150,000
SW2314	Lyndell Drainage Improv	40945206	506393	1,011,045
SW2315	Bermuda Estate Drainage Improv	40945206	506393	489,910
SW2316	Copier	40945506	506494	5,181
SW2318	Flail Mower (2)	40945506	506494	10,675
SW2319	Flooring	40945506	506393	33,900
SW2321	Roof	40945506	506393	41,000
SW2322	Slip-line Program	40945506	506393	100,000
Grand Total				31,376,869

OPERATING ACCOUNTS

Funding for Incentives and Other Contract Services	00122103	503434	470,835
Legal services for CM related projects not anticipated	00105103	503131	471,362
Appraisal services for CM related projects not anticipated	00105103	503434	83,471
Professional Services	00115103	503131	36,093
Advertising	00115103	504901	9,277
Training	00115103	505555	27,703
GEO Operating Supplies	00115203	505252	1,167
GEO Office Supplies	00115203	505151	4,838
GEO Special Function	00115203	505261	2,641
Funds needed for year end and grant management assistance	00120103	503232	87,655
FY23 Other Contract Services unspent funds	00120103	503434	296,595
Funds needed for ongoing Tyler Munis trainings	00120103	505555	11,000
FY23 Professional Services unspent funds	00125103	503131	473,091
FY23 Other Contract Services unspent funds	00125103	503434	323,040
Tools & Equipment - purchase handguns & lights	00130203	505255	100,000
Purchase rear plates for bulletproof vests	00130203	505257	18,000
Additional cell phones	00130203	504141	40,000
GEO Employee Assistance	01050208	508382	20,992
Move to a capital account to be used for renovations to the Engineering Division's offices	00145203	503131	35,000
Move to tool and equipment account to purchase needed engineering software; Synchro, ICPR	00145203	503131	12,500
Move to electric account to cover remaining lighting installment payments	00145301	501212	24,541
To cover remaining lighting installment payments	00145303	504343	14,162
To continue funding resurfacing work	10345653	505353	880,276
Needed for hydrology service and nutrient analysis model.	40945203	503434	277,043
Funds needed to replaced mower boom and to pay outstanding invoices for sweeper in FY23	40945503	504649	105,000
To cover tipping fees and unforeseen charges; pickups, garbage, recycling, yard waste.	41145713	504347	82,000
To purchase additional NORD equipment	41145713	504649	56,000
To purchase additional bulk containers	41145713	505255	81,000
To cover unanticipated incidents/projects	56045603	503434	11,400
To cover unanticipated incidents/projects	56045603	503435	21,000
Grand Total			4,077,682

ITEM 7.R

Federal Aviation Administration Grant for Construction/Improvements of Taxiway Delta

Request

Approval to apply for a Federal Aviation Administration Grant to fund an Airport Improvement Project: “Rehabilitate, Mark, Light Taxiway Delta & RIMS – Construction and Engineering” at Kissimmee Gateway Airport.

Explanation

The Kissimmee Gateway Airport’s Capital Improvement Plan has identified the need to rehabilitate pavement and replace associated lighting for Taxiway Delta (TW D). The Pavement Condition Index (PCI) rating evaluates pavement conditions by assigning a scale...0 indicating failed and 100 indicating perfect. A PCI rating in the range of 41-55 indicates a “poor condition” and the current average number assigned to TW D is 47.5. The project will improve lighting with new LED edge lights and directional signs. In addition, the project will straighten an adjacent pavement, Taxiway Charlie, to meet the FAA’s Runway Incursion Mitigation (RIM) Program.

The construction project cost is \$8,260,000.00 and is scheduled for FY24. An application for funding will request 90% FAA (\$7,434,000.00). Typically, the Florida Department of Transportation (FDOT) will offer 8% (\$660,800.00) and require a local match (Airport) of 2% (\$165,200.00).

Recommendation

Staff recommends approval to apply for a Federal Aviation Administration Grant to fund an Airport Improvement Project: “Rehabilitate, Mark, Light Taxiway Delta & RIMS – Construction and Engineering” at Kissimmee Gateway Airport.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Airport

Presenter:

Attachment(s):

1. FAA Grant Application Taxiway Delta-Construction



Federal Aviation Administration

Dear Airport Sponsors:

The application period for fiscal year 2024 BIL Airport Terminal Program (ATP) funding is closing soon. Be sure to get your [electronic application](#) submitted no later than **October 16, 2023, 5:00 pm eastern time**. We want you to be a part of this historic funding opportunity to upgrade and modernize airport terminals and airport-owned airport traffic control towers around the nation.

[This program](#) allows airports to build, modernize and upgrade airport facilities to meet current standards, address current or future aeronautical demand, enhance environmental sustainability, and improve access for passengers with disabilities. The program includes multimodal terminal development and on-airport rail access projects. In addition, projects that relocate, reconstruct, repair, or improve airport-owned airport traffic control towers are also eligible under the program. Many airports in the national air transportation system operated by authorities, cities, territories, and tribes are eligible to apply.

As you work to complete your FY 24 ATP application, please note the following:

- This program is subject to the Domestic Preference Requirements under the Build America, Buy America Act (BABA). The FAA has published [two fact sheets](#) on the implementation of the Infrastructure Investment and Jobs Act (IIJA) and BABA, as a companion to the current requirements already in place.
- Applicants must demonstrate efforts to consider and address critical Infrastructure security and resilience consistent with Presidential Directive 21, *Critical Infrastructure Security and Resilience* and the *National Security Presidential Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems*.
- As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by DOT, FAA, or another agency or partner. This includes furnishing records upon request.
- Recipients of Federal transportation funding are required to comply fully with Title VI of the *Civil Rights Act of 1964* and implementing regulations, the *Americans with Disabilities Act*, Section 504 of the *Rehabilitation Act of 1973*, and all other civil rights requirements.
- FAA provided clarification regarding eligibility of reimbursement costs. Specifically, all project costs must be incurred after the grant execution date unless specifically allowable [\[Section D 6., 88 FR 63189\]](#).
- Applicants must be able to meet timeliness of implementation criteria as part of your application, with priority given those projects, including "design only" projects, that can satisfy all statutory and administrative requirements for grant award by June 2024 [\[Section E.1.ii, 88 FR 63189\]](#).

The application and instructions can be found at <https://www.faa.gov/bil/airport-terminals>. Be sure to check this page often for additional information.

This terminal program will allow our nation's airports to continue to operate safely and build state of the art facilities that are resilient to climate change impacts and achieve environmental sustainability. If you have any questions, please contact your [local airport district office](#).

Sincerely,

Shannetta R. Griffin, P.E.
Associate Administrator for Airports



Federal Aviation Administration (FAA)
Orlando Airports District Office

Airport Grant Pre-application Checklist

(COMPLETE ONE CHECKLIST PER GRANT REQUEST)

Airport: Kissimmee Gateway Airport (ISM)
Sponsor: City of Kissimmee
City, State: Kissimmee, FL
Date of Pre- Application: October 10, 2023

☐ We do not plan on having a project this fiscal year. The FAA is authorized to carry our entitlements into the next fiscal year. (If checked, skip below pre-application checklist, sign/date and return to ADO)

Items Required with Pre-application (select N/A only if applicable to the project)

No.	Document	Yes	N/A
1.	Cover Letter	☒	
2.	Detailed Project Information Sheet (per project item)	☒	
a.	Project Description and Justification (for Planning or Environmental Projects include Scope of Work)	☒	
b.	Special Circumstances	☐	☒
c.	Project Funding (be aware of your federal funding entitlement dollars)	☒	
d.	Project Cost Estimate	☒	
e.	Project Preliminary Checklist	☒	
f.	Proposed Project Schedule	☒	
g.	Project Sketch	☒	☐
3.	Environmental Determination Documentation (per project item)	☒	

Shaun J. Germolus

Sponsor's Designated Official Representative (Type or Print)

[Signature]

Sponsor's Designated Official Representative (Signature)

10.11.2023

Date

The purpose of this checklist is to identify some of the requirements and considerations associated with requesting Airport Improvement Program (AIP) funds. This checklist was created by the Orlando ADO for Florida airport sponsors to submit in lieu of SF 424, 5100-100 / 101 (OMB 4040-004, 2120-0569) in order to simplify the AIP pre-application package. **Note SF 424 and the 5100 forms are still required components of the AIP APPLICATION package.**

October 11, 2023

Mr. Bill Farris, Program Manager
Federal Aviation Administration
Orlando Airports District Office
8427 SouthPark Circle, Suite 524
Orlando, FL 32819

Dear Mr. Farris,

**Subject: Kissimmee Gateway Airport (ISM); Kissimmee, FL
FY 2024 Airport Improvement Program
Pre-Application Cover Letter**

In accordance with the Airport Improvement Program (AIP) and as established in our 3-year Capital Improvement Plan (CIP), enclosed please find the **2024 AIP** pre-application for the following projects:

1. Rehabilitate Taxiway Delta – Construction and Construction Engineering

The following items are enclosed for each of the above projects in the grant pre-application:

- ✓ Airport Grant Pre-Application Checklist
- ✓ Detailed Project Information Sheet
 - Description and Justification (scope of work for planning or environmental projects)
 - Special Circumstances
 - Project Funding
 - Project Cost Estimate
 - Project Preliminary Checklist
 - Proposed Project Schedule
 - Project Sketch
- ✓ Environmental Determination Documentation for each project

At this time, we are requesting **\$7,434,000.00 (FAA Share Only)** for the physical construction and construction engineering phase of the above project, based on estimates by our consultant, and as reflected in the Airport's CIP in which resembles the information provided to the ADO via the JACIP updates. We understand that any substantial increase in federal funding request may jeopardize funding for the enclosed project (s).

Sincerely,



Shaun J. Germolus, A.A.E.
Director of Aviation

Project No. 1: Detailed Project Information Sheet
Airport Improvement Program (AIP)

Airport : Kissimmee Gateway Airport (ISM)
 City, ST: Kissimmee, Florida
 TAX ID No./UEI: 59-6000348/LBMLAVYLN7M5
 SAM Expiration Date: 03/13/2024 (CAGE 6MXC0)
 Project Title: Rehabilitate Taxiway Delta and Taxiway C RIMS– Construction and Construction Engineering

Project Description:

This project will rehabilitate existing partial parallel Taxiway Delta, including RIMS correction and partial rehabilitation of Taxiway Charlie due to RIMS. The rehabilitation is approximately 3200 lf. The Taxiway Charlie for RIMS correction is approximately 800 lf. The project includes Medium Intensity Taxiway Lights (MITLS), guidance and mandatory hold signs, marking, grading, and drainage.

Project Justification:

The project will enhance safety standards on the Airport. The latest PCI for the Taxiway system as a whole is rated at 64 in 2021, projected to be 61 in 2023, and 55 by 2029. Taxiway Delta pavement evaluation feature numbers 405 and 410 are rated even lower at 45 and 44 respectively (average is 44.5) Taxiway C is 43. Applicable FAA Work Codes: ST TW IM. The project meets the tests of Table 3-4 of the AIP Handbook. 1) Advances safety 2) There is a need 3) Scope is appropriate - Only the items necessary are proposed for request. Source for PCI: FDOT Pavement Evaluation Report 2023.

Was this project in the airport's Capital Improvement Plan (CIP) in JACIP and accepted as eligible/justified in the FAA's Airport Capital Improvement Plan (ACIP)?

☒ Yes ☐ No (explain below)

Delete if not applicable or provide explanation as to why project should be considered.

Special Circumstances (check if applicable to the project):

- | | | |
|--|--|--|
| ☐ Force Account Services | ☐ Benefit Cost Analysis | ☐ [Enter Other] |
| ☐ Mods. To Standards | ☐ Design-build or CMR | ☐ [Enter Other] |
| ☐ AIP eligible & non-eligible | ☐ Exceeds FAA Stds. | ☐ [Enter Other] |

None anticipated at this time.

Project Funding:

Total Cost (100%)	FAA Share (90%)	State (8%)	Local (2%)
\$8,260,000.00	\$7,434,000.00	\$660,800.00	\$165,200.00
Type of Funding Proposed (FAA Share Only)			
Fund Type	Funds Available	Funds to be Used	Funds Remaining
NP Entitlements FY2024	\$150,000.00	\$150,000.00	\$0.00
BIL AIG Funds FY2024	\$844,000.00	\$844,000.00	\$0.00
Discretionary FY2024	\$6,440,000.00	\$6,440,000.00	\$0.00
Total	\$7,434,000.00	\$7,434,000.00	\$0.00

Alternate Funding Plan: *Provide an alternate funding plan if discretionary funding is unavailable, such as a substitute entitlement only project, reduce scope through bid alternates, move the project out to a future year, etc.*

The project will be split into separate TW Delta Rehab and TW Charlie Rehab/ RIMS bid schedules to provide flexibility in funding options. There is no other alternate funding sources or plan at this time.

Project Cost Estimate Breakdown:**Project # 1: Rehab Taxiway D and Taxiway C (RIMS)- CONSTRUCTION****Construction and Construction Engineering Estimate**

	Total	FAA
Construction	\$ 7,800,000.00	\$ 7,020,000.00
Construction Engineering	\$ 450,000.00	\$ 405,000.00
Airport Admin	\$ 10,000.00	\$ 9,000.00
	\$ 8,260,000.00	\$ 7,434,000.00

Total Estimated Project Cost (100%) \$ 8,260,000.00

Total FAA Share Cost (90%) **\$ 7,434,000.00**

**NOTE: FAA does not participate on allowances / contingencies. By FAA policy, a line item for estimated administrative costs can be included in the grant application if the sponsor cannot accurately calculate the total administrative costs. However, these estimated administrative costs must not exceed 2% of the grant amount or \$10,000, whichever is less.*

Project Preliminary Checklist:

AIP Document Pre-requisites	Dates	
Date of FAA Approved ALP	10/2023(under FAA Review)	
Date of last 5010, Airport Master Record verification for data corrections.	10/05/2023	
Date of last FAA approved Exhibit "A" Property Inventory Map w/ Exhibit "C", Title of Opinion	10/2023(under FAA Review)	
Date of Environmental Determination	10/20/23 CatEx	
Date of last Airport Pavement Maintenance Program.	01/12/23	
Date of Land Acquisition (if applicable)	N/A	
Impacts to FAA Facilities	Yes	No
Does the project impact FAA facilities?	☐	☒
Not Applicable.		

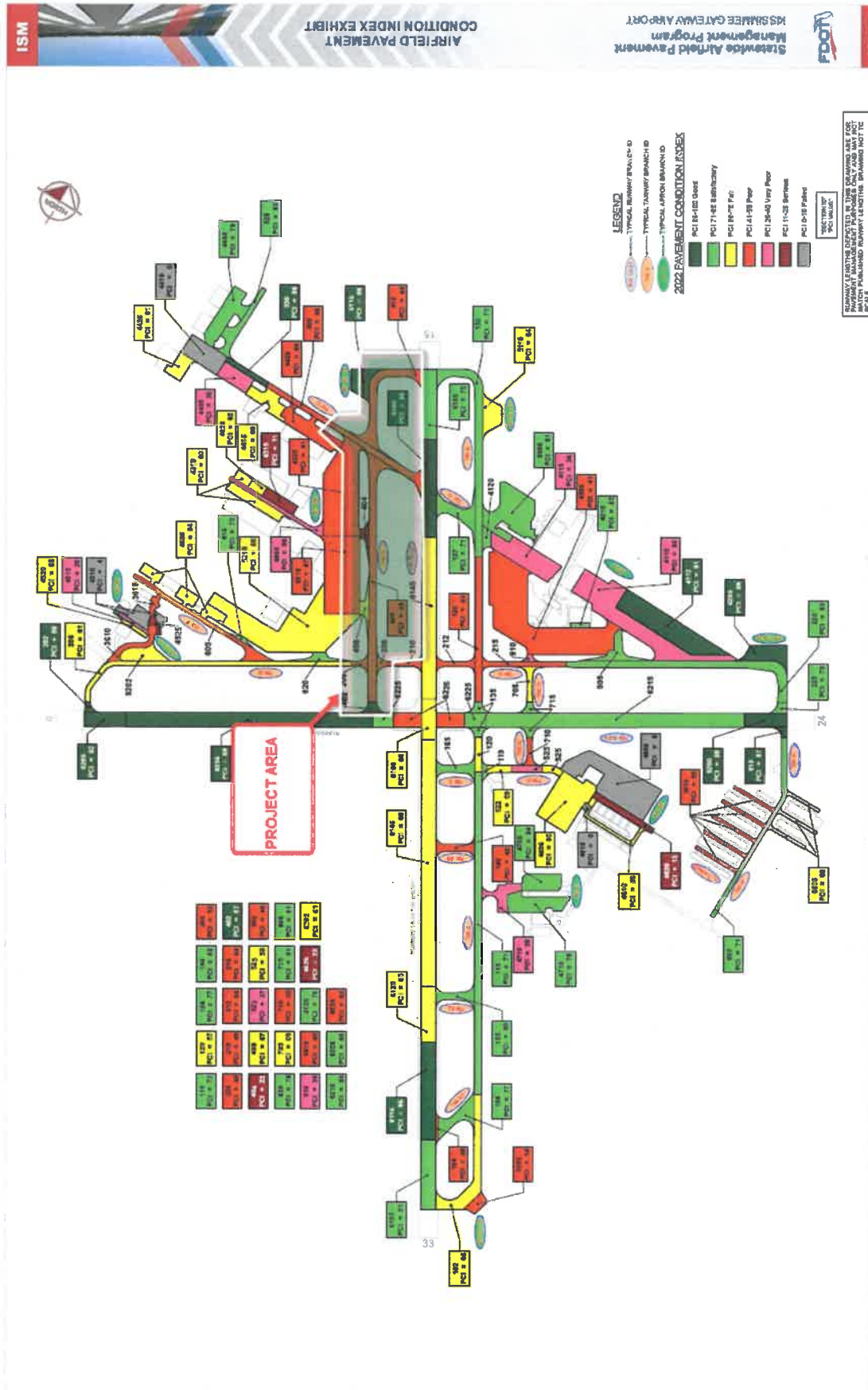
Project #1: Rehab Taxiway D and Taxiway C (RIMS)- - CONSTRUCTION
PROPOSED PROJECT SCHEDULE

<u>Proposed Project Schedule:</u>	<u>Dates:</u>
Selection of Consultant	05/17/2023
Pre-Application Submittal to FAA ADO Planner	10/20/2023
Application Submittal to FAA ADO Engineer	06/01/2024
Grant Offer	10/01/2024
Execution of FAA Grant	11/01/2024
Pre-Construction Conference	01/2025
Start Construction	02/2025
Substantial Construction Completion	09/2025
Final Construction Completion	10/2026
Project Close-Out ¹	01/2027

= To be coordinated with the ADO Engineer prior to grant application submittal.

¹ Project shall remain on schedule as shown above. Note that closeout of an AIP grant must not exceed four (4) years after grant execution date. You may refer to the AIP Handbook - Chapter 5, Section 8, Grant Closeout for additional details.

PROJECT SKETCH



Airport Pavement Evaluation Report
Statewide Airfield Pavement Management Program

2022

Network ID	Branch ID	Section ID	Current PCI	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
ISM	TW D	405	45	44	43	42	41	40	38	37	36	34	33
ISM	TW D	410	44	43	42	41	40	38	37	36	34	33	31
ISM	TW E	119	73	71	70	68	66	67	60	65	64	63	62
ISM	TW F	165	83	81	79	77	76	74	73	72	70	69	68
ISM	TW B	225	79	77	76	74	73	71	70	69	68	67	66
ISM	TW C	127	74	70	68	67	60	65	64	63	63	62	61
ISM	TW C	320	43	42	41	39	38	37	36	34	33	31	29
ISM	TW C	325	89	84	79	78	77	75	74	73	72	70	69
ISM	TW C	330	86	84	82	80	79	77	75	74	72	71	70
ISM	TW D	402	87	85	83	81	79	78	76	75	73	72	70



**FAA ORLANDO AIRPORTS DISTRICT OFFICE – CATEGORICAL EXCLUSION (CATEX)
SHORT FORM**

Airport: Kissimmee Gateway Airport (ISM)

Project Title: Rehab Taxiway Delta and Charlie (RIMS) – CONSTRUCTION

Use this CATEX Short Form if the Proposed Action is a federal action subject to NEPA and normally would not individually or cumulatively have a significant effect on the human environment. **Identify the applicable paragraph on the line below from FAA Order 1050.1F, paragraphs 5-6.1 through 5-6.6 for the Proposed Action : Paragraph 5.6e Rehab existing Taxiway**

List all components of the Proposed Action and Connected Actions (if any) on a separate sheet. *A CATEX should not be used for a segment or an interdependent part of a larger proposed action.* **Include** a summary of existing conditions at the Proposed Action site. **Attach** a site map identifying the Proposed Action area on the airport's current ALP and a recent aerial of the Proposed Action area.

Certify that the Proposed Action and Connected Actions are **NOT** likely to have extraordinary circumstances or significant impacts. Significance thresholds and factors to consider are in FAA Order 1050.1F Exhibit 4-1.

Extraordinary circumstances are listed in FAA Order 1050.1F paragraph 5-2, and summarized below:

-An adverse effect on cultural resources protected under the National Historic Preservation Act of 1966, as amended, 54 U.S.C. §300101 et seq.;

-An impact on properties protected under Section 4(f);

-An impact on natural, ecological, or scenic resources of Federal, state, tribal, or local significance (e.g., federally listed or proposed endangered, threatened, or candidate species, or designated or proposed critical habitat under the Endangered Species Act, 16 U.S.C. §§ 1531-1544);

-An impact on the following resources: resources protected by the Fish and Wildlife Coordination Act, 16 U.S.C. §§ 661-667d; wetlands; floodplains; coastal zones; national marine sanctuaries; wilderness areas; National Resource Conservation Service-designated prime and unique farmlands; energy supply and natural resources; resources protected under the Wild and Scenic Rivers Act, 16 U.S.C. §§ 1271-1287, and rivers or river segments listed on the Nationwide Rivers Inventory (NRI); and solid waste management;

-A division or disruption of an established community, or a disruption of orderly, planned development, or an inconsistency with plans or goals that have been adopted by the community in which the project is located;

An increase in congestion from surface transportation (by causing decrease in level of service below acceptable levels determined by appropriate transportation agency, such as a highway agency);

-An impact on noise levels of noise sensitive areas;

-An impact on air quality or violation of Federal, state, tribal, or local air quality standards under the Clean Air Act, 42 U.S.C. §§ 7401-7671q;

-An impact on water quality, sole source aquifers, a public water supply system, or state or tribal water quality standards established under the Clean Water Act, 33 U.S.C. §§ 1251-1387, and the Safe Drinking Water Act, 42 U.S.C. §§ 300f-300j-26;

-Impacts on the quality of the human environment that are likely to be highly controversial on environmental grounds. The term "highly controversial on environmental grounds" means there is a substantial dispute involving reasonable disagreement over the degree, extent, or nature of a proposed action's environmental impacts or over the action's risks of causing environmental harm.

-Likelihood to be inconsistent with any Federal, state, tribal, or local law relating to the environmental aspects of the proposed action; or

-Likelihood to directly, indirectly, or cumulatively create a significant impact on the human environment, including, but not limited to, actions likely to cause a significant lighting impact on residential areas or commercial use of business properties, likely to cause a significant impact on the visual nature of surrounding land uses, likely to cause environmental contamination by hazardous materials, or likely to disturb an existing hazardous material contamination site such that new environmental contamination risks are created.

Based on the information in this Short Form CATEX and supporting information, I certify that the Proposed Action and Connected Actions meet(s) all requirements for a CATEX in accordance with FAA Order 1050.F and do not have any extraordinary circumstances or significant impacts.



Signature of Authorized Airport Representative

10.11.2023

Date

FAA Determination (signature of Program Manager):

Categorically Excluded: _____ Date: _____

Requires further environmental analysis: _____ Date: _____

Final 7-8-2016

CATEGORICAL EXCLUSION ENVIRONMENTAL DETERMINATION CHECKLIST

Airport: Kissimmee Gateway Airport (ISM)

Prepared and certified by: Shaun Germolus, Director of Aviation

Date: 10/10/23

	YES*	NO	COMMENTS
THE PROPOSED ACTION MUST BE LISTED IN FAA ORDER 1050.1F PARAS. 5-6.1-5-6.6 AS AN ACTION THAT WOULD NORMALLY BE CATEGORICALLY EXCLUDED	X		These items are listed in Order 1050.1F, Paragraph 5.6e – Rehab Existing Taxiway
THE PROPOSED ACTION CONSISTS OF:			
Helicopter facilities or operations		X	
Land acquisition		X	
New airport serving general aviation		X	
Access or service road construction		X	
New airport location		X	
New runway		X	
Runway extension, strengthening, reconstruction, resurfacing or widening		X	
Converting prime or unique farmland		X	
Runway Safety Area (RSA) improvements		X	
ILS or ALS installation		X	
Airport development (hangars, terminal expansion)		X	
On-airport aboveground or underground fuel storage tanks		X	
Construction, reconstruction, or relocation of an ATCT		X	
THE PROPOSED ACTION WILL AFFECT:			
Historic/Archeological/Cultural Resources		X	
Section 4(f) or 6(f) resources		X	
Federally listed, endangered, threatened, or candidate species, or designated/proposed critical habitat		X	
Federal, state, tribal, or local natural, ecological, or scenic resources		X	
Wetlands, floodplains, waterways		X	
Energy supply or natural resources		X	
Protected rivers or river segments		X	
Established community(s), planned development, or plans/goals adopted by the local community		X	
Surface vehicular traffic (reduce LOS)		X	
Air quality or violate Federal, state, tribal or local standards		X	

Water quality, a sole source aquifer, public water supply system, or federal, state, or tribal water quality standards		X	
THE PROPOSED ACTION IS LIKELY TO:			
Be Highly Controversial on Environmental Grounds		X	
Be Inconsistent with Federal, state, tribal, or local law relating to environmental aspects		X	
Cause residential or business relocations		X	
Increase noise levels over Noise Sensitive Land Uses within the 65 dBA noise contour or newly include Noise Sensitive Land Uses within the 65 dBA noise contour.		X	
Cause Environmental Justice Impacts		X	
Contain Hazardous Materials or Affect Hazardous Materials/Sites		X	
Create a Wildlife Hazard per AC 150/5200-33		X	
Increase lighting impacts on residential communities or impact the visual nature of surrounding land uses		X	

**** Attach detailed explanations or analysis for all "yes" answers on a separate sheet that supports a Categorical Exclusion determination.**

Final 7-8-2016



> 1 ASSOC CITY: ORLANDO
> 2 AIRPORT NAME: KISSIMMEE GATEWAY
3 CBD TO AIRPORT (NM): 16 SW
4 STATE: FL
6 REGION/ADO: ASO /ORL
LOC ID: ISM
5 COUNTY: OSCEOLA, FL
7 SECT AERO CHT: JACKSONVILLE
FAA SITE NR: 03407.2*A

GENERAL

10 OWNERSHIP: PUBLIC
> 11 OWNER: CITY OF KISSIMMEE
> 12 ADDRESS: 101 CHURCH STREET
KISSIMMEE, FL 34741-5054
> 13 PHONE NR: (407) 518-2505
> 14 MANAGER: SHAUN GERMOLUS
> 15 ADDRESS: KISSIMMEE GATEWAY AIRPORT, 401 DYER BOULEVARD
KISSIMMEE, FL 34741-4613

> 16 PHONE NR: 407-518-2516

> 17 ATTENDANCE SCHEDULE:

MONTHS	DAYS	HOURS
ALL	ALL	0700-2200

18 AIRPORT USE: PUBLIC
19 ARPT LAT: 28-17-23.305N ESTIMATED
20 ARPT LONG: 81-26-13.493W
21 ARPT ELEV: 82.1 SURVEYED
22 ACREAGE: 892
> 23 RIGHT TRAFFIC: 15 06
> 24 NON-COMM LANDING: NO
> 25 NPIAS/FED AGREEMENTS: YES / NGPRY3
> 26 FAR 139 INDEX: /

SERVICES

> 70 FUEL: 100LL A
> 71 AIRFRAME RPRS: MAJOR
> 72 PWR PLANT RPRS: MAJOR
> 73 BOTTLE OXYGEN: NONE
> 74 BULK OXYGEN: HIGH
75 TSNT STORAGE: HGR TIE
76 OTHER SERVICES: AFRT,AMB,AVNCS,
CARGO,CHTR,INSTR,
RNTL,SALES,SURV

BASED AIRCRAFT

90 SINGLE ENG:	175
91 MULTI ENG:	26
92 JET:	19
93 HELICOPTERS:	19
TOTAL:	239
94 GLIDERS:	1
95 MILITARY:	0
96 ULTRA-LIGHT:	0

FACILITIES

> 80 ARPT BCN: WG
> 81 ARPT LGT SKED: SEE RMK
BCN LGT SKED: SS-SR
> 82 UNICOM: 122.950
> 83 WIND INDICATOR: YES-L
84 SEGMENTED CIRCLE:
85 CONTROL TWR: YES
86 FSS: SAINT PETERSBURG
87 FSS ON ARPT: NO
88 FSS PHONE NR:
89 TOLL FREE NR: 1-800-WX-BRIEF

OPERATIONS

100 AIR CARRIER:	4
102 AIR TAXI:	2,326
103 G A LOCAL:	72,555
104 G A ITNRNT:	75,349
105 MILITARY:	154
TOTAL:	150,388
OPERATIONS FOR 12 MONTHS ENDING 08/16/2018	

RUNWAY DATA

> 30 RUNWAY IDENT:
> 31 LENGTH:
> 32 WIDTH:
> 33 SURF TYPE-COND:
> 34 SURF TREATMENT:
35 GROSS WT: S
36 (IN THSDS) D
37 2D
38 2D/2DS

15/33	06/24
6,001	5,001
100	100
ASPH-G	ASPH-G
GRVD	GRVD
114.0	89.0
189.0	140.0
300.0	

> 39 PCN / PCR:

45/F/A/X/T (PCN) 33/F/A/X/T (PCN)

LIGHTING/APCH AIDS

> 40 EDGE INTENSITY:
> 42 RWY MARK TYPE-COND:
> 43 VGSi:
44 THR CROSSING HGT:
45 VISUAL GLIDE ANGLE:
> 46 CNTRLN-TDZ:
> 47 RVR-RVV:
> 48 REIL:
> 49 APCH LIGHTS:

MED	MED
PIR- G / NPI- G	NPI- F / NPI- F
P4L / P4L	P4L / P4L
49 / 48	45 / 45
3.00 / 3.00	3.00 / 3.00
- / -	- / -
- / -	- / -
/ Y	Y / Y
MALSF /	/

OBSTRUCTION DATA

50 FAR 77 CATEGORY:
> 51 DISPLACED THR:
> 52 CTLG OBSTN:
> 53 OBSTN MARKED/LGTD:
> 54 HGT ABOVE RWY END:
> 55 DIST FROM RWY END:
> 56 CNTRLN OFFSET:
57 OBSTN CLNC SLOPE:
58 CLOSE-IN OBSTN:

PIR / C	C / B(V)
/	/
TREE / FENCE	TREES / POLE
/	/
53 / 6	49 / 41
1,970 / 200	1,848 / 1,585
25L / 245R	250R / 175R
34:1 / 0:1	34:1 / 34:1
N / Y	N / N

DECLARED DISTANCES

> 60 TAKE OFF RUN AVBL (TORA):
> 61 TAKE OFF DIST AVBL (TODA):
> 62 ACLT STOP DIST AVBL (ASDA):
> 63 LNDG DIST AVBL (LDA):

/	/
/	/
/	/
/	/

> (>) ARPT MGR PLEASE ADVISE FSS IN ITEM 86 WHEN CHANGES OCCUR TO ITEMS PRECEDED BY >

> 110 REMARKS:

A 058 RWY 33 +6 FT FENCE 190 FT FM RWY END 245 FT R OF CNTRLN.
A 081 WHEN ATCT CLSD ACTVT MALSF RWY 15; REIL RWY 06 & 24 & 33; PAPI RWY 06, 15, 24, & 33; MRL RWY 06/24 & 15/33 - CTAF.
A 000 RWY 15 CALM WIND RWY.
A 000 RWY 33 MULT UNLGT OBSTNS FIRST 3000 FT; 250-500 FT E & W OF CNTRLN.
A 000 RWY 06 HOLDING BAY RSTRD TO ACFT WITH WINGSPAN OF 49 FT OR LESS.
A 110-001 NOISE SENSITIVE AREA 1/2 MI N OF AER 24. DEP RWY 06 EARLY TURNOUTS NA.
A 110-002 REQ ALL JETS/TURBO PROPS USE NBAA CLOSE-IN PROC.

111 INSPECTOR: (S) 112 LAST INSP: 08/16/2018 113 LAST INFO RES:



AIRPORT MASTER RECORD

PRINT DATE: 10/06/2023
AFD EFF 10/05/2023
FORM APPROVED OMB 2120-0015

> 1 ASSOC CITY: ORLANDO
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> 40 EDGE INTENSITY:
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45 VISUAL GLIDE ANGLE:
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> 51 DISPLACED THR:
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> 55 DIST FROM RWY END:
> 56 CNTRLN OFFSET:
57 OBSTN CLNC SLOPE:
58 CLOSE-IN OBSTN:

DECLARED DISTANCES

> 60 TAKE OFF RUN AVBL (TORA):
> 61 TAKE OFF DIST AVBL (TODA):
> 62 ACLT STOP DIST AVBL (ASDA):
> 63 LNDG DIST AVBL (LDA):

(>) ARPT MGR PLEASE ADVISE FSS IN ITEM 86 WHEN CHANGES OCCUR TO ITEMS PRECEDED BY >

> 110 REMARKS:

A 110-005 ULTRALGT ACFT NA EXCEPT PPR - AMGR.
A 110-007 LOW LVL VFR HEL, WILDLIFE & BIRDS ON & INVOF ARPT.
A 110-008 HEL RUN ON LNDG NA.
A 110-009 RWY 15 HAS UNLGTED OBSTNS PRESENT IN THE APCH DUE TO 52 FT TREES 1960 FT BFR AER.

111 INSPECTOR: (S) 112 LAST INSP: 08/16/2018 113 LAST INFO RES:

ITEM 7.S

HOME Program and Subordination Agreements for the Pinnacle at the Wesleyan Apartments

Request

Approval and execution of the HOME Program Agreement between the City and Pinnacle at the Wesleyan, LLC (Pinnacle at the Wesleyan Apartments) and the associated Subordination Agreement.

Explanation

On June 6, 2023, the City Commission approved the award of HOME funding in an amount of \$500,000 to subsidize the construction of a 96 unit multifamily complex known as Pinnacle at the Wesleyan Apartments for households with an income not to exceed 60% of the area median income (that is \$52,680 for a family of 4), of which ten (10) units are to be set aside as HOME assisted units. The project consists of new construction of 96 units with a mix of 12 one-bedrooms, 60 two-bedrooms, and 24 three-bedroom units.

The project will have an affordability period of twenty (20) years. The affordability restrictions must remain in force regardless of transfer of ownership. The termination of the affordability restriction upon foreclosure does not terminate the requirement that the City of Kissimmee must repay the HOME funds invested in the project.

The total development budget for the project is \$33,817,641 and the funding sources are as follows: Bank of America (tax credit equity and construction loan); Neighborhood Lending Partners (permanent first mortgage); CDFI funds (second mortgage), FHFC Viability Loan Funds (third mortgage), Osceola County (fourth mortgage); and City of Kissimmee (fifth mortgage).

Of the \$500,000 committed to this project, \$305,949.38 is being allocated from prior HOME allocations and is available for disbursement on a reimbursement basis after the execution of the Agreement and the remaining \$194,050.62 is subject to appropriation for the PY23 HOME allocation by HUD and will be available for disbursement on a reimbursement basis after the HOME Disbursement Agreement is signed with Osceola County who is the lead agency of the Osceola HOME Consortium.

A subordination agreement is required because of the four other loans that are senior in position.

Financial Information

Account #	Project #	Increase / Decrease	Budget	Actual
11325103 503434	11320	Decrease	\$33,509	\$33,509
11325108 508282	11320	Decrease	\$8,749	\$8,749
11325108 508282	HOME2021	Decrease	\$291,012	\$255,949.38
11325108 508282	HOME2022	Decrease	\$123,582	\$7,742
11325108 508282	HOME2023	Decrease	\$328,616	\$194,050.62

Financial Summary:

There is no fiscal impact on the General Fund since this is a grant-funded project.

Recommendation

Approval to execute the HOME Program Agreement and Subordination Agreement for the Pinnacle at the Wesleyan Apartments.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: Development Services

Presenter:

Attachment(s):

1. (S) Pinnacle at Wesleyan Apartments HOME Agreement v2
2. (S) Wesleyan Subordination Agt

**HOME PROGRAM
AGREEMENT BETWEEN
THE CITY OF KISSIMMEE AND
PINNACLE AT THE WESLEYAN, LLC
(PINNACLE AT THE WESLEYAN)**

This **HOME Program Agreement** (hereinafter referred to as the "Agreement") is entered into on _____, 2023, by and between the **City of Kissimmee**, a Florida municipal corporation with a principal address of 101 Church Street, Florida 34741 (hereinafter referred to as "City") and **Pinnacle at the Wesleyan, LLC**, a Florida limited liability company with a principal address of 9100 S. Dadeland Blvd., Suite 700, Miami, Florida 33156 (hereinafter referred to as "Owner").

WITNESSETH:

WHEREAS, the National Affordable Housing Act of 1990 authorized the HOME Program to provide financial assistance through the U.S. Department of Housing and Urban Development (HUD), to local governments for the production of affordable housing; and

WHEREAS, Owner desires to obtain funds in the amount of ***Five Hundred Thousand and 00/Dollars and 00/100 (\$500,000.00)*** to subsidize the construction of a 96-unit development to be known as the "Pinnacle at the Wesleyan". The development will be located at 4151, 4160, 4171, 4181 and 4190 Wesley Creekside Drive, Kissimmee, Florida 34741 (south of intersection of Warbird Boulevard and Flying Fortress Avenue) as more particularly described on the attached **Exhibit "A"** (hereinafter referred to as the "Property" of which Owner will designate ten (10) units as HOME-assisted units; and

WHEREAS, the City, as a member of the Osceola HOME Consortium, has committed ***Five Hundred Thousand and 00/Dollars and 00/100 (\$500,000.00)*** in HOME funds to construct multifamily rental units for the purpose of providing decent, safe, and affordable housing; and

WHEREAS, of those Osceola HOME Consortium funds as stated above, ***Three Hundred and Five Thousand Nine Hundred and Forty Nine Dollars and 38/100 (\$305,949.38)*** is being allocated from prior HOME allocations and are available for disbursement after the execution of this Agreement once construction starts pursuant to the City's authority as a member of the Osceola HOME Consortium; and

WHEREAS, the remaining ***One Hundred and Ninety Four Thousand Fifty Dollars and 62/100 (\$194,050.62)*** is subject to appropriation for the PY23 HOME allocation by HUD and will be available after the HOME Disbursement Agreement is signed with Osceola County who is the lead agency of the Osceola HOME Consortium; and

WHEREAS, Owner will provide the long term ownership and management responsibilities and maintenance of the Affordability requirements required by HUD; and

WHEREAS, the construction of the Property for rent to Very Low and Low Income households at affordable rents is an eligible activity under the HOME Program; and

WHEREAS, the Parties desire to enter into this Agreement in order to ensure compliance with the requirements of the HOME Program and to secure other covenants and promises from Owner regarding the use of funds to benefit Very Low and Low Income households, as defined under the standards of eligibility established by HUD and adjusted annually, a copy of which

eligibility income levels for the current year is attached hereto as **Exhibit “B”** and is incorporated herein by this reference.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the sufficiency and receipt whereof being hereby acknowledged, the City and Owner agree as follows:

SECTION 1. DEFINITIONS

As used herein, the following words and terms, whether capitalized or not, shall have the following meanings, unless the context demands otherwise:

1. Affordable - means meeting the income requirements, maximum HIGH or LOW HOME rents to be charged for the units, and other income and rental requirements as more fully described in the Loan Documents.
2. Affordability Period - means that the HOME-assisted units shall remain Affordable for twenty (20) years from the date of Project Completion.
3. Annual Income - means the projected annual income for a household, or more specifically, the gross amount of wages, income from assets, regular cash or non-cash contributions, and any other resources and benefits determined to be income by HUD, as defined in 24 CFR §5.609.
4. Eligible Person or Eligible Household - means one or more natural persons or a family who is determined by the Owner and verified by the City to be within the income requirements for this project. The income limits are based on those published annually by HUD.
5. HUD - means the United States Department of Housing and Urban Development, its successors or assigns.
6. Loan Documents - means this HOME Agreement, the Note, the Mortgage, Declaration of Restrictive Covenant and Restrictions and all agreements, exhibits, or attachments to each of the foregoing, referenced therein or executed or delivered pursuant hereto or in connection with or arising under the loan contemplated hereby.
7. Note - means that certain promissory note of even date with the Loan Documents given by Owner to the City evidencing the loan contemplated by this Agreement.
8. Project- means the construction of the Property in which ten (10) affordable units will be constructed with HOME funds and rented for the duration of the Affordability Period as follows: two (2) affordable units will be rented to and occupied by Very Low Income persons or families at LOW Home rents and eight (8) will be rented to Sixty Percent Income (60%) persons or families at HIGH Home rents; all in the manner as described herein and the Budget (as defined herein), and all according to the income limits published annually by HUD based upon the Annual Income of the household.
9. Project Completion - means that the construction of the Property contemplated under this Agreement has been completed; the Property meets all HOME Program regulations and the requirements of 24 CFR Part 92; meets the applicable property standards under §92.251; and the project is rented and occupied in accordance with the terms of this Agreement.

10. Sixty Percent Income – means one or more natural persons or a family who has a total Annual Income for the household that does not exceed sixty percent (60%) of the median family income within the Orlando metropolitan statistical area, as determined by HUD, with adjustments for smaller and larger families.

11. Very Low Income – means one or more natural persons or a family who has a total Annual Income for the household that does not exceed fifty percent (50%) of the median family income within the Orlando metropolitan statistical area, as determined by HUD, with adjustments for smaller and larger families.

Other terms herein which have not been defined shall have the definition, meaning and intent given them in the HOME regulations or 24 CFR Part 92, or as cross-referenced therein, or their ordinary dictionary meaning as the context so requires.

SECTION 2. USE OF HOME/ARP FUNDS AND LOAN AMOUNT

1. Recitals: The recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.

2. Use of HOME Funds: Under the terms and conditions of this Agreement and the other documents executed in connection with this Agreement, the City agrees to loan Owner HOME funds in the amount of **Five Hundred Thousand and 00/Dollars and 00/100 (\$500,000.00)** towards the construction of the Property, as more fully described in **Exhibit "A"** attached hereto and incorporated herein by reference.

The Property shall be 100% constructed and all ten (10) of the HOME assisted units rented to and occupied by Eligible Persons at Affordable rents no later than **August 31, 2025**.

A list of tasks to be performed and a budget for the use of these HOME funds is described in **Exhibit "F"** (the "Budget"), which is attached hereto and made a part hereof by this reference. Owner shall expend the HOME funds only for those items as set forth in the Budget and as permitted under the HOME regulations as set forth in 24 CFR §92.206. Owner shall not use any HOME funds for prohibited purposes as set forth in 24 CFR §92.214 or other HOME regulations. Owner acknowledges and agrees that any HOME/ARP funds not used in accordance with this Agreement and with permitted HOME regulations must be repaid to the City. Owner also acknowledges and agrees that if this Project is terminated before completion or if Owner fail to rent to Eligible Persons for the duration of the Affordability Period for any reason, either voluntarily or otherwise, Owner must repay all HOME/ARP funds awarded to Owner for the Project to the City (subject to applicable cure periods herein and force majeure).

3. Deferred Loan - Execution of Note, Mortgage, and Restrictive Covenant: The loan of these HOME funds to Owner shall be in the form of a deferred payment loan with the terms set forth in this Agreement. Owner shall execute a promissory note, mortgage, declaration of covenants and restrictions, and other loan documents (the "Loan Documents") as required by the City. Accordingly, Owner shall execute a promissory note in favor of the City substantially in the form attached hereto as **Exhibit "C"** (the "Note") and incorporated herein by reference in the amount of the award. The Note shall be secured by a mortgage (the "Mortgage") on the Property substantially in the form attached hereto and incorporated herein, by reference, as **Exhibit "D"**. Owner shall also execute a Declaration of Restrictive Covenant and Restrictions, attached hereto and incorporated herein as **Exhibit "E"**, for the Property which sets forth various income and rent

covenants restricting the affordability of the HOME-assisted units and that these covenants will continue for twenty (20) years from Project Completion.

No payment shall be due to the City prior to the Maturity Date (as defined in the Note) as long as there is not an Event of Default under the terms of this Agreement. However, upon the occurrence or existence of an Event of Default that is left uncured during any applicable grace periods, as more specifically defined below, City is free to exercise all remedies including those contained in this Agreement, which includes having all amounts disbursed to the Owner for the Project be repaid to the City and accelerating the loan to maturity, whereupon the outstanding principal balance of the loan shall become immediately due and payable. The outstanding principal balance, together with any accrued interest, may be forgiven at any time on or following the Maturity Date in the City's sole and absolute discretion.

4. Disbursement of the Funds:

(a) Conditions Precedent. Owner agrees that this loan and the disbursement thereof of any funds are conditioned on the satisfactory completion of the environmental review process. Notwithstanding any provisions of this Agreement, the Parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon the satisfactory completion of an environmental review and receipt by the City of a Release of Funds from HUD under 24 CFR Part §58. The Parties further agree that the provision of any funds to the Project is conditioned on the City's determination to proceed with, modify, or cancel the loan based upon the results of the environmental review and follow up with any mitigation required for the project.

(b) After Completion of Conditions Precedent (Obtaining Environmental Clearance). The City shall reimburse payment to Owner in accordance with the Budget. For construction or rehabilitation related projects, the City shall reimburse Owner the HOME loan proceeds only after receipt of appropriate invoices and documentation, and specific itemization of expenses incurred. Reimbursement of costs incurred by Owner with HOME proceeds will be made to Owner only after approval by the City, in its sole discretion, of invoices submitted, payroll records, copies of paid bills, cancelled checks, and verification of work completed in accordance with this Agreement and applicable HOME regulations. Owner may not request disbursement of HOME funds under this Agreement until the funds are needed for payment of eligible HOME costs and the amount of each disbursement request shall be limited to only the amount needed. Advance disbursements of HOME funds are not allowed under this Agreement. Requests for payment shall be made on a form substantially similar to **Exhibit "G"**, attached hereto and incorporated herein by reference. Along with each request for payment, Owner shall submit the corresponding Contractor's Invoice, Partial Release of Lien, and Warranty on the forms attached hereto as **Exhibit "H"**, attached hereto and incorporated herein by reference. Owner agrees that the City may retain ten percent (10%) of each reimbursement request until 50% completion, at which point no further retention shall be required (the "Retainage"), until Owner provides the City with releases of liens from all contractors, subcontractors, and suppliers and otherwise demonstrates that it has fully complied with Part 1, Construction Liens, Chapter 713, Florida Statutes, and all of the terms of this Agreement, including correction of all work and materials found to be deficient by the City. Also, City will not release the Retainage until completion of all punch-list items, issuance of a Certificate of Occupancy or Certificate of Completion and completion of a final inspection to verify that the Project is completed substantially in accordance with all approved plans, local codes, and property standards. Request for final payment and the Retainage, shall be made on a form substantially similar to the Contractor's Final Payment Affidavit and Waiver and Final Release of the Lien attached as **Exhibit "I"**, attached hereto and incorporated herein by reference. Owner may amend the Budget with the prior written approval

of the City, provided no such approval shall be required for modifications made as a result of line item savings for which no further draws are expected for such line item (beyond the release of any Retainage held in connection therewith), and no approval will be required for Owner to reallocate funds included as a contingency line item.

Notwithstanding anything to the contrary in this Agreement, the City also reserves the right to request and approve documentation supporting any requests for reimbursement to verify the reasonableness and validity of such costs and such Budget may be modified by the City accordingly.

SECTION 3. DURATION OF THE AGREEMENT

1. Term: Unless earlier terminated, the term of this Agreement shall commence on the effective date of this Agreement which is the date of the last party to sign this Agreement (the "Effective Date") and shall remain in effect through the end of the Affordability Period. Notwithstanding any of the foregoing, all record keeping requirements, audits, and use and maintenance requirements mandated by HOME regulations shall survive termination of this Agreement. All Loan Documents executed in connection with this Agreement shall also survive termination of this Agreement and will remain in effect under the terms and conditions specified therein.

2. Restrictive Covenant: In order to ensure compliance with the Affordability Period, Owner shall execute the Declaration of Restrictive Covenant and Restrictions which shall be recorded in the public records of Osceola County, Florida.

SECTION 4. AFFORDABILITY

1. Units to be Assisted: Owner has designated ten (10) units on the Property to be assisted with HOME funds and all are deemed floating "HOME-assisted units".

2. Rental Requirements: Every HOME-assisted unit is subject to rent controls designed to ensure that rents are Affordable to Very Low and to Sixty Percent Income, as applicable. The HOME-assisted units in the Project must be rented and occupied as follows: two (2) will be rented to and occupied by Very Low Income persons or families at LOW Home rents as published by HUD annually with the current such rents set forth on **Exhibit "B"**; and eight (8) units will be rented to and occupied by Sixty Percent Income (60%) persons or families at HIGH HOME rents as published by HUD annually with the current such rents set forth on **Exhibit "B"**. Owner must not charge more than the HIGH or LOW income rents set forth by HUD and meet these affordability requirements for not less than the Affordability Period, as those requirements are described in 24 CFR §92.252(l). Owner shall also comply with all income determinations, rent, and affordability requirements of the HOME Program as set forth in 24 CFR §92.203 and 24 CFR §92.252, as applicable.

3. Tenant Selection: Owner shall undertake the initial review of income eligibility of prospective tenants for all the HOME-assisted units. Owner must obtain from each tenant and each tenant shall submit the information contained in the Tenant Qualification Package attached hereto as **Exhibit "J"** and the Resident Income Certification Form attached hereto as **Exhibit "K"**. In determining income eligibility, Owner must examine source documents evidencing the prospective tenant's Annual Income, in accordance with 24 CFR §92.203(a)(1)(i). In conducting such review, Owner shall determine if each family is income eligible by determining the family's Annual Income in accordance with 24 CFR § 5.609 which is an allowable methodology under 24

CFR§ 92.203. Owner shall comply with all income determinations and affordability requirements of the HOME program as set forth in 24 CFR § 92.203 and 25 CFR §92.252, as applicable.

Owner shall adopt written tenant selection policies consistent with 24 CFR §92.253(d). This tenant selection policy must be given to the City thirty (30) days after the Effective Date for the City's approval. All documentation including but not necessarily limited to a tenant's application, verifications, proposed rent, and lease terms shall be submitted to the City for review upon request. Owner acknowledges that the City may keep documentation verifying the income eligibility of tenants.

4. Period of Affordability: All HOME-assisted units shall continue to be rented to Eligible Persons at Affordable rents as prescribed by HUD and maintained as Affordable housing units for the Affordability Period. In order to ensure compliance with the Affordability Period, Owner shall execute the Declaration of Restrictive Covenant and Restrictions which shall be recorded in the public records of Osceola County, Florida. The Affordability requirements apply without regard to the term of any loan or mortgage, or the transfer of ownership until the expiration of the Affordability Period. Owner acknowledges that failure to meet the Affordability requirements stated herein is a breach of this Agreement and a default under the Note and Mortgage which requires repayment of the HOME proceeds.

5. Maximum Tenant Income: Initially, and during the Affordability Period, the maximum income for households residing in the HOME-assisted units are as follows: two (2) of the HOME-assisted units cannot exceed fifty percent (50%) of the median income adjusted by family size for the Orlando Metropolitan Statistical Area (MSA), as determined annually by HUD; and the maximum income for households residing in eight (8) of the HOME-assisted units cannot exceed sixty percent (60%) of the median income adjusted by family size for the Orlando Metropolitan Statistical Area (MSA). HUD updates the income limits annually and the City will provide this information to Owner annually as it becomes available. The current income limits for the year in which this Agreement is entered into are provided in **Exhibit "B"** for reference. If the annual income of a tenant which was classified as an Eligible Person or Eligible Household shall be determined upon reexamination to exceed the applicable income limit, the unit shall continue to be counted as occupied by an Eligible Person or Eligible Household during such tenant's continued occupancy of the unit, and Owner shall not be considered out of compliance with this Agreement or other Loan Documents provided Owner shall rent the next available unit to an Eligible Person or Eligible Household.

6. Rent Limitations (24 CFR §92.252) Maximum Gross Rents: The HOME regulations in 24 CFR §92.252 set forth the maximum rents Owner can charge the tenant for the HOME-assisted units. The maximum gross rent for each HOME-assisted unit (including applicable utility allowances computed in accordance with Section 42 of the Internal Revenue Code and applicable HOME regulations) shall not exceed the maximum HIGH HOME Rents as published annually by HUD. The maximum gross rent payable by the tenant for the units rented and occupied by Very Low Income persons must have rents that are no greater than the LOW HOME rents as published by HUD. The Very Low Income tenants must occupy the LOW HOME rent units. Actual rents paid by the tenant(s) for HOME-assisted units may be less than, but never more than, these maximum rental amounts set forth by HUD.

If the HOME-assisted unit tenant pays for utilities, the HIGH and LOW HOME rents must be reduced by the utility allowance. City shall provide Owner with a copy of the utility allowance as it is updated annually. Owner shall review all rents proposed to ensure compliance with HOME regulations. No fees or surcharges, that are not customarily charged in rental housing, can be applied without the express approval of City.

7. Increases in Tenant Income: To the extent specifically required by applicable regulations under the HOME Program, during the Affordability Period, if an existing tenant's adjusted income increases to the extent that it exceeds eighty (80%) percent of the median income for the Orlando MSA, as defined annually by HUD, said tenant's rent may be increased to an amount equal to thirty percent (30%) of the family's adjusted monthly income, provided, however, such rental increase does not violate any other financing requirement or restrictive covenants with respect to the Project including, without limitations, the Extended Low-Income Housing Agreement to be entered into between Owner and Florida Housing Finance Corporation that regulates affordability in connection with the allocation of Federal Low-Income Housing Tax Credits for the Project.

8. Subsequent Rents During Affordability Period: Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment. In accordance with 24 CFR §92.252(f) regarding subsequent rents during the Affordability Period, any proposed increase in rents for HOME-assisted units must be submitted to the City for review and approval. Increases in LOW HOME rents or HIGH HOME rents published by HUD will be deemed approved. Any increase in rents is subject to the provisions of outstanding leases and Owner must provide tenants of those units not less than thirty (30) days prior written notice before implementing any increase in rents.

9. Lease Provisions: All leases for the HOME-assisted units shall be in compliance with all state and local landlord and tenant laws. Additionally, for the HOME-assisted units, all leases between Owner and its tenants shall be for not less than one (1) year in duration and shall comply with all of the provisions in 24 CFR §92.253. Owner agrees that certain clauses are prohibited in leases as outlined in 24 CFR 92.253(b). The prohibited clauses include: agreement to be sued; agreements regarding the treatment of tenant's property; agreement excusing Owner from responsibility; agreement by the tenant that Owner may institute a lawsuit without notice; waiver of eviction legal proceedings; waiver of jury trial; waiver of right to appeal a court decision; and agreement to pay legal costs, regardless of outcome. Owner shall not include any of these prohibited clauses in its leases for HOME-assisted units and shall submit copies of the leases to City to obtain its consent for any lease forms used prior to using such form to enter into a lease with a tenant. Additionally, Owner may not terminate the tenancy of a HOME-assisted unit tenant or refuse to renew the lease of a HOME-assisted unit tenant, except for serious or repeated violations of the terms and conditions of the lease; violation of applicable federal, state, or local laws; for completion of the tenancy period for transitional housing; or for other good cause. To terminate or refuse to renew the tenancy, Owner must serve written notice upon the tenant specifying the grounds for the action at least thirty (30) days before the termination of the tenancy.

10. Certification of Tenants' Income and Rents: Each year during the Affordability Period, Owner shall re-verify and re-examine tenant income eligibility for the HOME-assisted units in accordance with 92.203(a)(1)(i) by examining source documents. Owner shall also comply with 24 CFR §5.609 and provide City with information on rents and occupancy of HOME-assisted units in order to demonstrate compliance with 24 CFR § 92.252. Owner shall submit to City within ninety (90) days of its fiscal year end, all information and documentation regarding rents and income records similar to that provided at initial lease-up of all tenants that are or have been occupying HOME-assisted units within the preceding twelve (12) months. This is to verify that all tenants meet the income guidelines at rents set forth above or in the case of existing tenants whose income has increased above such income guideline, that Owner has complied with applicable HOME regulations in filling vacant units each year during the Affordability Period.

11. Non-Discrimination Against Rental Assistance Subsidy Holders: Owner cannot refuse to lease HOME-assisted units to a certificate or voucher holder under 24 CFR part 982 – Section 8

Tenant Based Assistance: Unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.

12. Owner shall not, in the provision of services, or in any other manner, discriminate against any person on the basis of age, race, color, creed, religion, sex, handicap, familial status, or national origin. Unwed parents, families with children born out of wedlock, and recipients of public assistance shall not be excluded from the participation in or be denied the benefits of the Section 8 Existing Housing Program because of such status.

SECTION 5. HOME PROJECT REQUIREMENTS

1. Applicable Laws: Owner shall comply with all HOME project requirements of 24 CFR Part 92, including subpart F. Owner shall comply or shall assist City in complying with all applicable federal and state laws, rules, and regulations dealing with this Project, whether presently existing or hereafter promulgated, including but not limited to 24 CFR Part 85 and applicable OMB Circulars. Owner agrees to comply with all the HOME Program requirements, HUD regulations, 42 U.S.C. §§12701-12839 and 24 CFR Part 92, as amended from time to time, whether set forth herein or not, and agrees to execute or amend documents as necessary to be in compliance therewith. Owner also shall comply with all other applicable federal, state and local statutes, ordinances, rules and regulations, including, but not limited to, all applicable provisions of the City's Land Development and Building Codes. If any HOME or federal regulations change during the term of the Affordability Period, the City will provide notice to Owner, and both shall comply with the new rules, regulations, and procedures.

2. Maximum Per Unit Subsidy Amount: The amount of HOME funds that a participating jurisdiction may invest on a per unit basis in affordable housing may not exceed the per-unit dollar limits according to the most recent Section 234 Condominium basis mortgage limits for elevator type projects that apply to the area in which the housing is located as an alternative to the discontinued Section 221(d)(3) limits.

3. Subsidy Layering Review: It is City's responsibility under HOME regulations, and more specifically 24 CFR §92.250, to evaluate the use of other local, state, or federal assistance in HOME-assisted projects to ensure that it does not invest any more HOME funds than are necessary to provide low income housing. The initial layering review of the Project was done taking into consideration the Sources and Uses Statement and Pro-forma along with the funding application submitted by Owner and approved by City. Owner must submit revised Sources and Uses Statements and Pro-forma if any of the original funding sources, amounts, or financial conditions change from the time its application was approved. Owner will complete the Certification of Governmental Assistance attached hereto as **Exhibit "L"**.

4. Tenant and Participant Protection: Prior to receiving any disbursement of funds, Owner will comply with all tenant and participant protections in 24 CFR §92.253.

SECTION 6. PROPERTY STANDARDS

Owner shall comply with the property standards requirements set forth in 24 CFR §92.251. Owner agrees that all housing constructed with HOME funds shall be in conformance with the City's Land Development and Building Codes. Owner acknowledges and agrees that at Project Completion

and through the Affordability Period, the Property must meet all applicable state and local codes, rehabilitation standards, ordinances, and zoning requirements. Newly constructed housing shall meet the current edition of the Model Energy Code published by the Council of American Building Officials.

All housing must meet the accessibility requirements in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973. Covered multi-family dwellings, as defined at 24 CFR §100.201, must meet the design and construction requirements set forth in 24 CFR §100.205, which implements the Fair Housing Act. Based on the number of units for this Project, the minimum amount is 5 units. Owner shall maintain the Property in compliance with state and local housing codes for the Affordability Period. Owner will allow City to conduct inspections of the Property to determine compliance with these property standards. Owner shall keep records to document compliance with these property standards.

SECTION 7. AFFIRMATIVE MARKETING OF RENTAL OR VACANT UNITS

Owner shall develop and provide City with an affirmative marketing plan to rent the HOME-assisted units within thirty (30) days of the Effective Date. Owner shall affirmatively market all of the units available for rent in a manner to attract tenants without regard to race, color, national origin, sex, religion, familial status, or disability in accordance with this plan. Owner shall comply with the provisions of 24 CFR §92.351 and the City's affirmative marketing procedures for the term of this Agreement, through the term of the Affordability Period. A copy of the City's affirmative marketing procedures is attached hereto as **Exhibit "M"** and is incorporated herein by this reference. Owner shall keep records of its efforts to provide information and otherwise to attract eligible persons from all racial, ethnic and gender groups. At a minimum, Owner shall: (a) indicate in its promotional material that the Project provides fair housing opportunities by using the Equal Housing Opportunity's logo type or slogan in all advertising; (b) display a Fair Housing poster in the rental office; (c) provide notice of the availability of the units to community groups and non-profit service organizations, such as places of worship, employment centers, fair housing groups, or housing counseling agencies; (d) where appropriate, advertise and use media, including minority outlets, likely to reach persons unlikely to apply for the housing; (e) not refrain from renting to any tenant holding a Section 8 Existing Housing Certificate, except for good cause, such as previous failure to pay rent and/or to maintain a rental unit, or the tenant's violation of other terms and conditions of tenancy; (f) comply with Section 8 Existing Housing Regulations when renting to any Section 8 tenant; (g) exercise affirmative marketing of the units when vacated; and (h) verify all information concerning the applicant or family members. Owner shall keep records necessary to comply with 24 CFR §92.508 (a)(7) to show that Owner affirmatively marketed the units in accordance with their approved plan and the City's requirements and keep records to assess the results of these actions. City will annually assess the success of these affirmative marketing actions and advise of the corrective action to be taken if affirmative marketing requirements are not met. If City amends its affirmative marketing procedures during the term of this Agreement, Owner will be notified and be obligated to comply with the new procedures in a commercially reasonable manner.

SECTION 8. REPORTS

1. Quarterly Reports: Until Owner completes the construction of the Property, Owner shall submit to the City quarterly reports of activities undertaken pursuant to this Agreement on the form attached as **Exhibit "N"**. Such reports shall include a narrative summary of progress, including but not limited to, selection of contractors, units under construction, units completed, demographic and income data on the beneficiaries, relocation issues, utilization of MBE/WBE's, Section 3 accomplishments, affirmative marketing and fair housing efforts, problems

encountered, and proposed solutions. Reports shall be due by the tenth (10th) day following the close of each quarter. Quarters end as follows: March 31st, June 30th, September 30th, and December 31st. The first report shall cover the period between the day this Agreement is last executed by a party hereto and the end of the quarter in which that period is contained. Failure to submit reports when due shall constitute a material breach under this Agreement if not timely cured by Owner following written notice from the city as provided in the last paragraph of Section 12.1 of this Agreement.

2. Annual Reports: Owner shall submit annual reports until the end of the Affordability Period. The report shall cover October 1st through September 30th which represents the City's fiscal year. The reports shall be due by the 20th of the following October. These reports shall include information on rental and occupancy of the HOME-assisted units, family size, income level, data for income certification, occupancy, monthly rent, utility information, maintenance, and financial issues, as well as neighborhood conditions, which may affect the stability of the Project. Owner acknowledges that over the term of this Agreement, City's reporting requirements may change. If this occurs, City will notify Owner of the new reports needed and Owner agrees to comply with the new reporting procedures. City also reserves the right to request additional information as needed.

SECTION 9. PUBLIC RECORDS

1. Public Records: Owner shall comply with 24 CFR §92.508 regarding records that must be maintained for this Project for the entire Affordability Period. The CITY reserves the right to request reasonable additional record keeping requirements. Within thirty (30) days following Owner receipt of written notice of these new requirements, Owner agree to comply with the CITY's new requirements, in a commercially reasonable manner. This section shall survive the termination of this Agreement.

Further, Owner 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, Owner shall keep and maintain public records required by the City to perform the service.

- a. **If Owner has questions regarding the application of Chapter 119, Florida Statutes, to Owner'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.**
- b. If City's Custodian of Records requests records from Owner, Owner 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.
- c. Owner 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 Owner does not transfer the records to City.

- d. Upon completion of the contract, Owner shall transfer, at no cost, to City all public records in possession of Owner or keep and maintain public records required by City to perform the service for a period of four (4) years following completion of the contract. If Owner transfers all public records to City upon completion of the Agreement, Owner shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Owner keeps and maintains public records upon completion of the Agreement, Owner 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.
- e. Upon notice to Owner of a request to inspect or copy public records relating to City's agreement for services, Owner shall provide the records to City or allow the records to be inspected or copied within a reasonable time.
- f. If Owner 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.
- g. If the Owner fails to provide the public records to City within a reasonable time may be subject to penalties under Florida Statutes §119.1
- h. Notwithstanding any of the foregoing, City shall maintain the confidentiality of any records or information that constitutes Owner's trade secrets or proprietary information and is exempt from disclosure, pursuant to Section 815.045, Florida Statutes. In the event City determines that the exemption from disclosure does not apply or that it is required by law or court order to disclose any records which may contain Owner's trade secrets or proprietary information, City will provide written notice to Owner of its determination and the legal basis for its determination prior to disseminating or publicly disclosing such records.

2. Period of Record Retention: All supporting documents shall be maintained in accordance with the requirements of 24 CFR §85.20. Owner shall maintain all records pertaining to the Project at its principal place of business for the most recent five (5) years after Project Completion, except as provided below:

For rental housing projects, records shall be retained for five (5) years after the Project Completion date; except that records of individual tenant income verifications, rents and project inspections which must be retained for five (5) years after the Affordability Period terminates.

Written agreements must be retained for five (5) years after the Affordability Period terminates.

Records covering displacements and acquisitions must be retained for five (5) years after the date by which all persons displaced from the property and all persons whose property is acquired for the Project have received the final payment to which they are entitled in accordance with 24 CFR §92.353.

If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

3. Owner shall comply with all Florida Public Records Statutes and maintain all documents related to the Project in accordance with Florida Public Records Statutes.

SECTION 10. MONITORING

Owner acknowledges and agrees that City will need to monitor their performance during the term of this Agreement and shall allow access, inspection, and copying of records to do so. Also, pursuant to 24 CFR §92.504(d), Owner shall assist the City in its obligation to conduct on-site inspections for compliance with this Agreement, construction progress, and compliance with property standard requirements listed herein and shall allow the City to access and inspect the Property at any time during the term of this Agreement. During the Affordability Period, Owner shall provide information as requested by the City so that the City can verify tenant incomes, rents, and other HOME requirements pursuant to 24 CFR §92.252 on an annual basis. Owner shall keep records to document compliance with these inspections and monitoring reviews and the resolutions of and findings of concern.

SECTION 11. HOME PROJECT REQUIREMENTS

1. Applicable Laws: Owner shall comply with all HOME project requirements of 24 CFR Part 92, including subpart F. If any HOME or federal regulations change during the term of the Affordability Period, City will provide notice to Owner, and Owner shall comply with the new rules, regulations, and procedures.

a. Non-Discrimination and Equal Opportunity: Owner shall not, on the grounds of race, color, national origin, religion, or sex, exclude any person from participation in, or deny any person the benefits of this Agreement, or subject any person to discrimination. Owner shall fully comply with the requirements of 24 CFR §92.350, including the federal requirements set forth in 24 CFR Part 5, Subpart A and the nondiscrimination requirements at Section 282 of the HOME Investment Partnerships Act and keep records of its compliance.

Owner shall at all times comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d-2000d-4 (Nondiscrimination in Federally Assisted Programs) and implementing regulations contained in 24 CFR Part 1, which prohibits discrimination on the basis of race, color, and national origin in all federally assisted programs.

Owner shall also not discriminate on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §6101-6107) and implementing regulations in 24 CFR Part 146.

Owner shall also comply with regulations governing the accessibility of federally assisted buildings, facilities, and programs. Owner shall comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) and implementing regulations contained in 24 CFR Part 8, which prohibits discrimination on the basis of disability and any applicable provisions of the Uniform Federal Accessibility Standards, and the applicable provisions of the Uniform Federal Accessibility Standards. To the extent feasible, at least two (2) units must be accessible to individuals with mobility impairments, although such accessible units shall not necessarily be HOME-assisted units.

Owner shall also comply with Title II of the Americans with Disabilities Act (42 U.S.C. §12101, et seq.) and implementing regulations in 24 CFR Part 8, which prohibits discrimination against persons with disabilities in all program activities and services of a public entity. Any contracts entered into by Owner shall include a provision requiring compliance with these regulations. Owner shall keep records demonstrating compliance with these requirements including compliance with 24 CFR §92.508(a)(7).

Owner shall cooperate with the City and HUD in conducting compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, executive orders, and all related rules and regulations.

b. Fair Housing Act: Owner shall comply with Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act-42 U.S.C. §§3601-3620), as amended, and implementing regulations at 24 CFR Part 100, et seq., Executive Order 11063, as amended by Executive Order 12259 (Equal Opportunity in Housing Programs) and implementing regulations in 24 CFR Part 107 and shall keep all records demonstrating compliance. All housing for sale or rent assisted with HOME funds must be made available without discrimination based on race, color, national origin, age, sex, religion, familial status, or disability in accordance with fair housing laws. Additionally, Owner shall comply with Executive Order 11063 and implementing regulations in 24 CFR Part 107, which prohibits discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing, or other disposition of residential property, or in the use or occupancy of housing assisted with federal funds.

c. Equal Employment Opportunity (Non-Discrimination in Employment): Owner shall comply with Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086 and 12107 (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR Part 60, and the Equal Employment Opportunity Clause. Any construction contracts exceeding \$10,000 entered into by Owner, Owner, or its contractors and subcontractors shall include a provision requiring compliance with these regulations. Owner shall keep records and documentation demonstrating compliance with these regulations.

d. Copeland "Anti-Kickback" Act: Owner shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. §874), as supplemented by the Department of Labor regulations contained in 29 CFR Part 3.

e. Section 3 Economic Opportunity: Owner shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701(u) and implementing regulations at 24 CFR Part 135 regarding economic opportunities for low-income persons.) Owner shall comply with the "Section 3" requirements. Section 3 mandates that opportunities for training and employment arising from the use of HOME funds shall be provided to Low-Income persons residing in the program service area. Contracts for all types of work to be performed in connection with the Project shall be awarded to business concerns that are located in or owned by persons residing in the program service area. Owner shall also include this provision in contracts or subcontracts in excess of \$100,000.00. Owner shall keep records documenting compliance with these requirements as required by 24 CFR §92.508(a)(7).

f. Utilization of Minority/Women's Business Enterprises: Owner shall, to the greatest extent feasible, ensure that Minority/Women's Business Enterprises are included for consideration for participation in all construction, supply, or service contracts, if any. Owner shall also comply with Executive Order 11625, as amended by Executive Order 12007 (Minority Business Enterprises), Executive Order 12432 (Minority Business Enterprise Development), and Executive Order 12138,

as amended by Executive Order 12608 (Women's Business Enterprise). Owner shall keep such records necessary to comply with 24 CFR §92.508(a)(7).

g. Debarment and Suspension: Owner shall comply with the debarment and suspension requirements set forth in 24 CFR Part 5 and 24 CFR Part 24. Owner shall not enter into a contract with any person, agency, or entity that is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 or 12689, "Debarment and Suspension," which are made a part of this Agreement by reference. In the event that Owner has entered into a contract or subcontract with a debarred or suspended party, no HOME funds will be provided as reimbursement for the work done by that debarred or suspended contractor or subcontractor. Owner shall keep copies of the debarment and suspension certifications required by 2 CFR Parts 2424 and 91 and documentation demonstrating compliance with the requirements of 2 CFR Part 2424 and 24 CFR 92.508(a)(7).

h. Anti-lobbying provision: Owner shall comply with the disclosure requirements and prohibitions of 31 U.S.C. §1352 and implementing regulations at 24 CFR Part 87 and shall so certify to the City. Owner shall complete and comply with the "Certification Regarding Lobbying", attached hereto as **Exhibit "O"** and made a part hereof by this reference. A copy of this document will be kept in each of the party's files. Owner shall also comply with the requirements for funding competition established by the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. §3531 et seq.).

i. Conflict of Interest:

(a) Owner shall comply with the conflict of interest provisions in 24 CFR §92.356. No person who is an employee, agent, consultant, officer, or elected official or appointed official of the City who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME funds or who is in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. Owner shall keep records supporting requests for waivers of conflicts prohibited in 24 CFR §92.356. Owner shall keep records demonstrating compliance with these requirements including compliance with 24 CFR §92.508(a)(7).

(b) Neither Owner nor any of their directors, officers, employees, agents, consultants, or members shall occupy any of the HOME-assisted units.

j. Displacement and Relocation: Owner will take all necessary steps possible to minimize displacement. If displacement is unavoidable, Owner shall comply with the provisions of 24 CFR §92.353, "Displacement, Relocation, and Acquisition". Owner shall keep records of its compliance with the requirements of 24 CFR §92.353, and as specified in 24 CFR §92.508. Types of records to be kept include but are limited to project occupancy lists identifying the names and address of all persons occupying the real property on the date described in §92.353(c)(2)(i)(A), moving into the property on or after the date described in §92.353(c)(2)(i)(A) and occupying the property on completion of the Project. Records covering displacements and acquisition must be retained for five (5) years after the date by which all persons displaced from the Property and all persons who property is acquired for the Project have received the final payment to which they are entitled in accordance with 24 CFR §92.353. If federal regulations are not applicable, Owner shall comply with City policy regarding relocation.

k. Lead-Based Paint Prohibited: Owner shall not use lead-based paint in any part of any of the Home-assisted units, common elements, or in the entire Property and shall comply with 24 CFR §92.355, and the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§4851-4856), and implementing regulations in 24 CFR Part 35, subparts A, B, J and R (Subpart K must also be complied with if acquisition is part of the project.) Subpart M is also required if there is any Tenant Based Rental Assistance. Owner shall keep records demonstrating compliance with these requirements including compliance with 24 CFR §92.508(a)(7).

l. Audits and Financial Statements:

(a) Owner shall provide the City with its annual financial statement within ninety (90) days of the end of its operating year. This financial statement shall be prepared by an actively licensed public accountant.

(b) In addition, if expending more than \$500,000 of Federal awards during an operating year, Owner shall comply with the audit provisions contained in OMB Circular A-133, 24 CFR §85.26 and the Single Audit Act Amendments of 1996 (31 U.S.C. §§7501-7507). Audits shall be conducted annually. Owner shall submit its annual audit to the City and within one hundred twenty (120) days of the end of Owner's fiscal year. In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not expended in accordance with the conditions of this Agreement, Owner shall be held liable for reimbursement to the City of all funds not expended in accordance with those regulations and Agreement provisions within thirty (30) days after City has notified Owner of such non-compliance. Any reimbursement by Owner shall not preclude City from taking any other action or pursuing other remedies.

(c) Owner also agrees to allow the City's Internal Audit and Evaluation Department to conduct any audits or financial monitoring the City feels necessary at any time during the term of this Agreement or pursuant to any HUD request.

m. Uniform Administrative Requirements: Owner acknowledges that the City must comply with 24 CFR §92.505 regarding uniform administrative requirements, including OMB circular A-87 and the applicable portions of 24 CFR Part 85. If requested by the City to do so, Owner shall provide the City with such documentation and records to satisfy the City's requirements under these various provisions. Owner also agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

n. Environmental Review: Owner is not required to assume responsibility for an environmental review or assessment of this program pursuant to 24 CFR Part 58, nor responsibility for initiation of an intergovernmental review of this program and its activities. However, Owner is required to provide information about its activities in order for City to comply with its responsibility under 24 CFR Part 58. Owner shall submit to City any changes to the original proposed list of tasks or Budget so that the City may evaluate this new information and conduct any further environmental review. This information must be submitted to City for approval at least 30 days prior to any commencement of work. Owner also agrees to assist City in addressing environmental issues that may arise during City's review process.

o. Contract Work Hours and Safety Standards Act: Owner shall also comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-332), and other federal laws and regulations pertaining to labor standards and HUD Handbook 1344.1, as applicable. Owner shall maintain records demonstrating compliance, including contract provisions and payroll

records. All construction contracts and subcontracts entered into by Owner shall contain these labor provisions so as to cover all laborers and mechanics employed in the development of the Project, including any non-HOME-assisted units. Owner shall certify to City compliance with these provisions before making any payments under any contracts.

Owner shall maintain records demonstrating compliance with 24 CFR §92.354, including maintaining records and contract provisions and payroll records. Such documentation shall be submitted to City for review in accordance with the Department of Labor regulations.

p. Compliance with Davis-Bacon Act. Owner shall not be required to comply with 24 CFR §92.354, and the requirements of the Secretary of Labor contained in the Davis-Bacon Act (40 U.S.C. §276(a) to (a-7)), as amended, and as supplemented and implemented by the Department of Labor regulations in 29 CFR Parts 1-7, as fewer than twelve (12) units in the Project are HOME-assisted units.

q. Violence Against Women Act (VAWA). Owner shall comply with 24 CFR §92.359 in order to meet all the Violence Against Women Act (VAWA) requirements, including notification requirements, bifurcation of lease requirements, development of a VAWA lease or lease addendum, and obligations under the Emergency Transfer Plan for the duration of the Affordability Period.

r. Broadband Infrastructure. Installation of high-speed broadband is a requirement for projects with four (4) units or more.

s. Build America, Buy America (BABA) – Owner shall comply with the Build America, Buy America Act, enacted as part of the Infrastructure Investment and Jobs Act on November 15, 2021 which establishes a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022. The domestic content procurement preference requires that all iron, steel, manufactured products, and construction materials used in covered infrastructure projects are produced in the United States. For purposes of this requirement, buildings and real property are considered infrastructure projects. Owner may request a BABA waiver if (1) a waiver is in the public interest, (2) the types of iron, steel, manufactured products or construction materials are not produced in the United States in sufficient and reasonable available quantities or satisfactory quality, or (3) the application of the domestic content preference would increase the cost of the overall project by more than 25 percent. Owner has requested a waiver of BABA in connection with this Agreement, and the City has granted such waiver as such waiver is in the public interest by virtue of the delivery of 96 critically needed affordable rental units to address an affordable housing crisis in the City.

SECTION 12. ENFORCEMENT OF AGREEMENT - DEFAULTS AND REMEDIES

1. Events of Default: The following shall constitute an 'Event of Default' under this Agreement:

(a) if Owner fails to comply with any HOME Program regulation, which is not cured during any applicable grace period, including, but not limited to, 42 U.S.C. §§12701-12839, 24 CFR Part 92;

(b) if Owner fails to comply with any of the terms contained in this Agreement or uses the funds other than as authorized by this Agreement or any of the other documents executed in connection with this Project;

(c) if Owner fails to timely comply with audit requirements;

(d) if Owner fails to expend HOME funds in a timely manner or fails to meet any of the time requirements as set forth in this Agreement;

(e) if Owner fails to construct the Property as required by this Agreement;

(f) if Owner fails to rent any of the HOME-assisted units to Eligible Persons at the Affordable rents during the duration of the Affordability Period as required by this Agreement;

(g) if at any time any material representation or omission made by Owner

in any written certification or communication submitted by Owner to City in an effort to induce the making of this loan or the administration thereof is determined by City to be false, misleading, or incorrect in any material manner as of the date made;

(h) if Owner does not disclose to City, upon demand, the names of all entities with whom Owner has contracted for the construction or management of any portion of the Property, including contracts for services and/or labor;

(i) if Owner fails to pay any sum when due under this Agreement, the Note, or other documents executed in connection with this Project; or

(j) if any other default or breach shall occur under the Note, Mortgage, Declaration of Restrictive Covenant, or any other Loan Documents executed in connection with this loan by the City.

Notwithstanding any of the foregoing provisions to the contrary, prior to any noncompliance with the terms of this Agreement being deemed a default, breach or Event of Default, Owner shall be entitled to prior written notice and 30 days after receipt thereof (except with regards to (a) above), to cure the same, or longer if such cure is diligently pursued. Further, if Owner has failed if Owner fails to cure any default prior to the expiration of any stated applicable cure period, City may, at its sole option, cure such default, provided, however, that City shall be under no duty or obligation to do so.

2. No Waiver: Failure of City to declare a default shall not constitute a waiver of any rights by the City. Furthermore, the waiver of any default by the City shall in no event be construed as a waiver of rights with respect to any other default, past or present.

3. Remedies: Upon the occurrence of any Event of Default or any other breach of this Agreement, City shall be free to take many actions including, but not limited to terminating this Agreement, retaining all undisbursed funds, accelerating the loan to maturity and demanding payment from Owner for all amounts disbursed to Owner, and/or exercising all rights and remedies available to it under the terms of this Agreement, or other Loan Documents, statutory law, equity or under common law. Additional examples of actions City may take include, but are not limited to:

(a) direct Owner to prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, time tables, and milestones necessary to implement the affected activities;

(b) establish and follow a management plan that assigns responsibility for carrying out the remedial actions;

- (c) cancel or revise activities likely to be affected by the performance deficiency, before expending HOME funds for the activities;
- (d) reprogram HOME funds that have not yet been expended from activities to offer eligible activities or withhold HOME funds;
- (e) direct Owner to reimburse City for any amounts not used in accordance with the requirements of 24 CFR Part 92 or this Agreement;
- (f) suspend disbursement of HOME funds;
- (g) debarment or suspension; limited further funding opportunities;
- (h) other appropriate action including, but not limited to any action legally available such as litigation, declaratory judgment, specific performance, damages, injunctions, enforcement of the Declaration of Restrictive Covenant, termination of the Agreement, or any other available remedies; or
- (i) City may also exercise any one or more of the actions contained in 24 CFR §85.43(a) (1-5) or §85.44.

All remedies shall be deemed cumulative and, to the extent permitted by law, the election of one or more remedies shall not be construed as a waiver of any other remedy which City may have available to it.

SECTION 13. INDEMNIFICATION

Owner agrees to be liable for any and all damages, losses, and expenses incurred by the City caused by the acts and/or omissions of Owner or Owner, or any of its employees, agents, sub-contractors, representatives, or the like. Owner agrees to indemnify, defend, and hold the City harmless for any and all claims, suits, judgments or damages, losses and expenses, including, but not limited to, court costs, expert witnesses, consultation services, and attorney's fees arising from any and all acts and/or omissions of City, or any of its employees, agents, sub-contractors, representatives, or the like, except to the extent caused by the City's gross negligence or willful misconduct. Notwithstanding, nothing in this Agreement shall be construed as a waiver by City of its rights to statutory sovereign immunity pursuant to FS §768.28.

SECTION 14. INSURANCE

Without limiting Owner's indemnification, Owner shall maintain in force at all times during the performance of this Agreement, all appropriate policies of insurance hereinafter described concerning its operations. Certificates with valid and authorized endorsements evidencing the maintenance and renewal of such insurance coverage shall be delivered to the City thirty (30) days prior to commencement of construction. City shall be given notice in writing at least thirty (30) calendar days in advance of cancellation or modification of any policy of insurance. City, its officers and employees shall be named as an additional named insured on all policies of liability insurance.

- (a.) All policies of insurance shall be in a company or companies authorized by law to transact insurance business in the State of Florida. In addition, such policy shall provide that the coverage shall be primary for losses arising out of Owner's performance of the Agreement. The required certificates shall be furnished by Owner prior to execution of this Agreement.

At least thirty (30) calendar days prior to the expiration of any of the above-referenced insurance policies, Owner, shall provide City with evidence of the renewal of said insurance policies in a form satisfactory to City.

The policies of insurance which must be secured are:

1. Commercial General Liability Insurance: Owner must secure commercial general liability insurance to include, but not be limited to, bodily injury and property damage coverage. The policy's limit liability amount shall not be less than Five Hundred Thousand Dollars (\$500,000) per person/per occurrence for bodily injury to, or death to one or more than one person and not less than One Hundred Thousand Dollars (\$100,000) per occurrence for property damage.
2. Workers' Compensation Coverage: All employees of Owner must be included under such policy in an amount and with coverage to meet all requirements of Florida law.
3. Flood Insurance: Owner shall provide flood insurance as required under applicable HUD regulations.
4. Builder's Risk. During the rehabilitation of the Property, Owner shall have insurance in effect to cover all risks or damages to the Property.
5. Property Insurance. Owner must obtain property insurance for the replacement cost of the improvements, exclusive of foundation and infrastructure.

SECTION 15. APPLICABLE LICENSING

Owner, at its sole expense, shall obtain all required Federal, State, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein.

SECTION 16. BANKRUPTCY OR INSOLVENCY

If Owner files a Petition in Bankruptcy, or if it is adjudged bankrupt or insolvent by any Court, or if a receiver of the property of the Owner shall be appointed in any proceeding brought by or against the Owner, or if the Owner shall make an assignment for the benefit of creditors, or proceedings shall be commenced on or against the Owner's operations of the premises which proceedings are not dismissed within 90 days following service upon Owner, City may terminate this Agreement immediately.

SECTION 17. ASSIGNMENT

This Agreement shall only be assignable by the Owner upon the express written consent of the City.

SECTION 18. SEVERABILITY

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the Parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

SECTION 19. WAIVER

Failure of the Parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement, or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, condition, or right of election, but same shall remain in full force and effect.

SECTION 20. NOTICE

The Parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to City. All notices required and/or made pursuant to this Agreement to be given to City shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

City: City of Kissimmee Development Services Department
Craig M. Holland, Director
101 Church Street
Kissimmee, FL 34741-5054

Owner: Pinnacle at the Wesleyan, LLC
David O. Deutch, President of Authorized Member
9100 S Dadeland Blvd., Ste. 700
Miami, Florida 33156

With a copy to:

Pinnacle at the Wesleyan, LLC
c/o DDER Wesleyan Manager, LLC
Deion R. Lowery, Manager
2700 Westhall Lane, Suite 200
Maitland, Florida 32751

and

Bank of America, N.A.

SECTION 21. MODIFICATION

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the Parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

SECTION 22. HEADINGS

All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions contained in such sections, exhibits, and attachments.

SECTION 23. JOINT AUTHORSHIP

This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the Parties hereto.

SECTION 24. EQUAL OPPORTUNITY EMPLOYER

City is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. City will further ensure that all individuals, corporations, or other entities it utilizes for the project will comply with all equal opportunity employment laws.

SECTION 25. EQUAL OPPORTUNITY PARTICIPATION

Owner agrees that no person shall on the grounds of race, color, gender, age, disability, or national origin be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program or activity. Owner further assures every effort will be made to ensure nondiscrimination in all of its program activities.

SECTION 26. AUDITING, RECORDS AND INSPECTION

In the performance of this Agreement, Owner shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. 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 an authorized representative of City and shall be retained by Owner for a period of five (5) years after the termination or completion of this Agreement or until a full City audit is completed, whichever comes first. 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. City also has the right to conduct an audit within sixty (60) days from the Effective Date to determine whether the Owner has the ability to fulfill its contractual obligations to the satisfaction of City. City has the right to terminate this Agreement based upon the findings in this audit without regard to any notice requirement for termination.

SECTION 27. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, Owner must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, Owner must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, Owner may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include this requirement in certain subcontract,

such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

SECTION 28. COMPLIANCE WITH ALL LAWS

Owner, at their sole expense, shall comply with all Laws, Ordinances, Judicial Decisions, Orders, and Regulations of Federal, State, County, and municipal governments, as well as their respective Departments, Commissions, Boards, and Officers, which are in effect at the time of execution of this Agreement or are adopted at any time following the execution of this Agreement.

SECTION 29. SURVIVAL

All provisions of this Agreement intended to survive or to be performed subsequent to the end of the period of this Agreement shall survive termination of the Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement, each upon the date set forth next to his/her name.

Signed in the presence of two witnesses:

OWNER

Pinnacle at the Wesleyan, LLC, a Florida limited liability company

Signature

Print Name: _____

By: PC Wesleyan, LLC, a Florida limited liability company, its Authorized Member

Signature

Print Name: _____

By: _____

Name: David O. Deutch

Title: President

SIGNATURES CONTINUE ON THE NEXT PAGE

CORPORATE ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

THE FOREGOING was acknowledged before me this _____ day of _____, 2023, by David O. Deutch, as President of PC Wesleyan, LLC, a Florida limited liability company, its Authorized Member, Pinnacle at the Wesleyan, a Florida limited liability company. He/She is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

ATTEST:

**CITY OF KISSIMMEE, FLORIDA,
a municipal corporation**

By: _____
Linda Hansell, City Clerk

By: _____
Mayor
Date: _____

EXHIBIT "A"

PROPERTY LEGAL DESCRIPTION

Lot 3, SHINGLE CREEK PLAZA, according to the Plat thereof, recorded in Plat Book 7, page 2, of the Public Records of Osceola County, Florida.

EXHIBIT "B"

**INCOME LIMITS
PERSONS ELIGIBLE AND QUALIFIED TO RECEIVE SAID SERVICES AS ESTABLISHED
BY THE U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT (HUD) 2023**

	<u>1 Person</u>	<u>2 Person</u>	<u>3 Person</u>	<u>4 Person</u>	<u>5 Person</u>	<u>6 Person</u>	<u>7 Person</u>	<u>8 Person</u>
VERY LOW INCOME	30,750	35,150	39,550	43,900	47,450	50,950	54,450	57,950
60% LIMITS	36,900	42,180	47,460	52,680	56,940	61,140	65,350	69,540
	1 BR	2BR	3BR	4BR				
LOW HOME RENT LIMIT	768	823	988	1141				
HIGH HOME RENT LIMIT	979	1050	1262	1450				
FOR INFORMATION ONLY:								
FAIR MARKET RENT	1338	1422	1616	2064				
50% RENT LIMIT	768	823	988	1141				
65% RENT LIMIT	979	1050	1262	1450				

EXHIBIT "C"

PROMISSORY NOTE

\$500,000.00

_____, 2023

Kissimmee, Florida

For value received, the undersigned promises to pay the City of Kissimmee, a Florida municipal corporation, the principal sum of ***Five Hundred Thousand Dollars and 00/100 (\$500,00.00)***. Said principal shall be payable at 101 Church Street, Kissimmee, FL 34741, or at such other place as the holder hereof may designate in writing, in one (1) principal installment of ***Five Hundred Thousand Dollars and 00/100 (\$500,00.00)*** due on _____, 2055 (the "Maturity Date"); provided, however, that if the undersigned is in full compliance with that certain HOME Program Agreement and all agreements between the undersigned and the City through the Affordability Period or undersigned has cured any defaults thereunder, then the debt evidencing this Note may be marked cancelled by the City in its sole and absolute discretion. This Note will not bear interest.

Notwithstanding the above, at the option of the City, this Note shall become immediately due and payable, upon the occurrence of any of the following events (each an "Event of Default"): (i) failure to pay any sum when due under this Note, the HOME Program Agreement, or such other documents executed in connection with this Project, and such failure continues for ten (10) days after written notice by City to the undersigned; (ii) failure to comply with any HOME Program regulations including, but not limited to, 42 U.S.C. §§12701-12839, 24 CFR Part 92; (iii) failure to comply with any of the terms contained in the HOME Program Agreement or uses the funds other than as authorized by the HOME Program Agreement or any of the other documents executed in connection with this Project; (iv) failure to timely comply with audit requirements; (v) failure to expend HOME funds in a timely manner or fails to meet any of the time requirements as set forth in the HOME Program Agreement; (vi) failure to build the Property as required by the HOME Program Agreement; (vii) failure to rent the HOME-assisted units to Eligible Persons at Affordable rents for the Affordability Period as required in the HOME Program Agreement; (viii) if at any time any material omission or material representation made by the undersigned in any written certification or communication submitted by the undersigned to the City in an effort to induce the making of this loan or the administration thereof is determined by the City to be false, misleading, or incorrect in any material manner as of the date made; (ix) failure to disclose to the City, upon demand, the names of all entities with whom the undersigned has contracted for the construction or management of any portion of the Property, including contracts for services and/or labor; or (x) if any other default or breach of any term shall occur under the Note, Mortgage, or any Loan Documents, and such failure continues for thirty (30) days after notice, or longer if necessary to cure and cure is being diligently pursued. To the extent notice and cure is not provided above, the undersigned shall be entitled to prior notice and 30 days thereafter to cure any default, or longer if necessary to cure and cure is being diligently pursued, before the City exercises its rights or remedies hereunder.

The holder hereof may exercise this option to accelerate upon an Event of Default, provided said Event of Default extends beyond the applicable cure period, by the undersigned regardless of any prior forbearance. In the event of any default under this Note, and if the same is referred to an attorney at law for collection, or any action at law or in equity is brought with respect hereto, the undersigned shall pay the holder hereof all expenses and costs, including, but not limited to, reasonable attorney's fees.

The maker of this Note hereby waives demand, presentment, notice of dishonor, and protest. This Note shall be the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

The debt evidenced by this Note is secured by a Mortgage and Security Agreement of even date herewith (the "Mortgage"), covering the property described in **Exhibit "A"** (the "Property"), inclusive of all ten (10) designated HOME-assisted units as more fully described in the Mortgage and HOME Program Agreement.

The term "Loan Documents" when used herein shall mean, collectively, the following documents: (i) this Note; (ii) the Mortgage; (iii) the HOME Program Agreement between the City of Kissimmee and Pinnacle at the Wesleyan, LLC- ("HOME Program Agreement"); (iv) Declaration of Restrictive Covenant and Restrictions; and (v) all other documents or agreements arising under, related to, or made in connection with, the loan evidenced by this Note, as such Loan Documents may be amended. All persons to whom this Note may come are referred to the Mortgage, the HOME Program Agreement, and other Loan Documents for their effect on this Note. All terms not defined herein shall have the meaning ascribed to such terms in the HOME Program Agreement.

The validity of this Note and the other Loan Documents, each of their terms and provisions and the rights and obligations of the undersigned under this Note, and the other Loan Documents shall be governed by, interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of Florida. The undersigned agrees that any controversy arising under or in relation to this Note, HOME Program Agreement, the Mortgage or any other Loan Documents shall be litigated exclusively in the State of Florida. The state and federal courts and authorities with jurisdiction in the State of Florida shall have exclusive jurisdiction over all controversies which may arise under or in relation to this Note, including without limitation those controversies relating to the execution, interpretation, breach, enforcement or compliance with this Note, the Mortgage, or any other issue arising under, related to, or in connection with any of the Loan Documents. The undersigned irrevocably consents to service, jurisdiction, and venue of such courts for any litigation arising from this Note, Mortgage, or any of the other Loan Documents, and waives any other venue to which it might be entitled by virtue of domicile, habitual residence, or otherwise.

The provisions of this Note, the Mortgage, HOME Program Agreement, and all other Loan Documents shall be binding on the successors and assigns, including, but not limited to, any receiver, trustee, representative or other person appointed under foreign or domestic bankruptcy, receivership, or similar proceedings of the undersigned and any person having an interest in the undersigned.

The enforcement of this Note and the other Loan Documents shall be nonrecourse to the undersigned and its members. The City's sole recourse against undersigned and its members for the payment thereof shall be the collateral under the Mortgage.

The Note may be prepaid at any time without penalty or premium.

By signing below, the undersigned accepts and agrees to the covenants and agreements contained in this Note.

OWNER

Pinnacle at the Wesleyan, LLC, a Florida
limited liability company

By: PC Wesleyan, LLC, a Florida limited
liability company, its Authorized
Member

By: _____

Name: David O. Deutch

Title: President

EXHIBIT "D"

MORTGAGE

THIS MORTGAGE (hereinafter "Mortgage") is made this ____ day of _____, 2023, by the Mortgagor, **Pinnacle at the Wesleyan, LLC**, a Florida limited liability company with a principal address of 9100 S. Dadeland Blvd., Suite 700, Miami, Florida 33156 (hereinafter referred to as "Borrower"), in favor of the Mortgagee, **City of Kissimmee**, a Florida municipal corporation with a principal address of 101 Church Street, Kissimmee, FL 34741 (hereinafter "Lender").

WHEREAS, Borrower and Lender have entered into an HOME Program Agreement (the "HOME Agreement"), a copy of which is on file in the City Clerk's Office for the City of Kissimmee and the definitions and terms of which are incorporated herein by this reference as if fully set forth herein, and which provides, among other things, that the Lender will loan to Borrower HOME funds to be used towards the construction of ten (10) units, to be located in Pinnacle at the Wesleyan having addresses at 4151, 4160, 4171, 4181, and 4190 Wesley Creekside Drive, Kissimmee, Florida 34741, in which 10 units shall be designated as HOME-assisted units for rent to Very Low and Sixty Percent Income persons or families, as applicable, at Affordable rents and upon such other terms as set forth in the HOME Agreement; and

WHEREAS, to ensure, that the HOME-assisted units are rented to Very Low and Sixty Percent persons or families at Affordable rents and on the terms set forth in the HOME Agreement, Borrower has executed a note in favor of Lender in the principal sum of **Five Hundred Thousand Dollars and 00/100 (\$500,000.00) - Three Hundred and Five Thousand Nine Hundred and Forty Nine Dollars and 38/100 (\$305,949.38)** is being allocated from prior HOME allocations and are available for disbursement after the execution of this Mortgage once construction starts; and the remaining **One Hundred and Ninety Four Thousand Fifty Dollars and 62/100 (\$194,050.62)** is subject to appropriation for the PY23 HOME allocation by HUD and will be available after the HOME Disbursement Agreement is signed with Osceola County who is the lead agency of the Osceola HOME Consortium; and

WHEREAS, which indebtedness is evidenced by Borrower's promissory note dated of even date herewith (hereinafter "Note"), a copy of which is attached hereto as **Exhibit "A"**, due and payable as provided in the Note.

To secure to Lender (a) the indebtedness evidenced by the Note, and all renewals, extensions, and modifications thereof; (b) the performance of the covenants and agreements of Borrower contained in the Note between Lender and Borrower; (c) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; (d) the performance of the covenants and agreements contained in the HOME Agreement between the Lender and Borrower; and (e) the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant, convey and assign to Lender the benefit of a lien on, and a security interest in any fee simple interest Borrower may acquire now or in the future in and to the following described real property located in Osceola County, Florida:

See Attached Exhibit "B"

THIS MORTGAGE AND THE NOTE SECURED HEREBY ARISE OUT OF OR ARE GIVEN TO SECURE THE REPAYMENT OF A LOAN ISSUED IN CONNECTION WITH THE FINANCING OF HOUSING UNDER PART V, CHAPTER 420, FLORIDA STATUTES AND ARE EXEMPT FROM DOCUMENTARY STAMP TAX AND INTANGIBLE TAX PURSUANT TO SECTION 420.513, FLORIDA STATUTES.

Together with all if Borrower's right, title and interest in all buildings, structures, improvements, and tenements now or hereafter erected on the Property; all heretofore or hereafter vacated alleys and streets abutting the Property, and all easements, streets, ways, alleys, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and therefor; all rents, royalties, mineral, oil and gas rights and profits, water rights and water stock appurtenant to the Property; all fixtures, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter located in or on, or used or intended to be used in connection with the Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; all elevators and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants; all leasehold estates and all leases or subleases of the Property, or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Borrower thereunder, including, without limitation, all cash or security deposits, advance rentals and deposits or payments of similar nature; all rents, profits, issues and revenue of the Property and the buildings on the Property from time to time accruing, whether under leases or tenancies now existing or hereafter created; all machinery, apparatus, equipment, fittings, fixtures and tangible personal property of every kind and nature whatsoever now or hereafter located on the Property or in any buildings or improvements upon the Property, or any part thereof, and used or usable in connection with the construction of or any occupancy of any buildings on the Property or the operation of the Property and all additions thereto; and all proceeds, products, substitutions, additions, renewals, accessions and replacements of any of the foregoing items. All of the foregoing real and personal property herein referred to as the "Property").

TO HAVE AND TO HOLD the said Property unto the Lender until the payment in full of the Note and the performance of all obligations under the Loan Documents (as defined in the HOME Agreement) through the date of such payment, in fee simple.

To protect the security of this Mortgage, Borrower further covenants, warrants and agrees with Lender as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay all payments provided for in the Note, any prepayment and late charges provided in the Note and all other sums secured by this Mortgage and shall otherwise comply with all the terms in the Note and this Mortgage.
2. **HOME Agreement.** The indebtedness that is secured by this Mortgage and is the subject of the Note shall be advanced pursuant to the covenants and conditions of the HOME Agreement between Borrower and Lender, all of which terms are incorporated herein by reference and made a part of this Mortgage with the same force and effect as if fully set forth in this Mortgage.

Funds for Taxes, Assessments, Charges, Liens. Borrower shall pay all water and sewer rates, rents, taxes, ad valorem taxes, assessments, premiums, insurance and other impositions attributable to the Property by Borrower making payment when due, directly to the payee thereof, or in such other manner as Lender may designate in writing. Upon request, Borrower shall promptly furnish to Lender all receipts evidencing such payments. Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property, or shall transfer to bond any claims of lien filed by any such persons.

Leases, Subleases and Easements. Borrower, at Borrower's sole cost and expense, shall maintain and cause to be performed, all of the covenants, agreements, terms, conditions and provisions on its part to be kept, observed and performed under any lease, sublease or easements, which may constitute a portion of or an interest in the Property; shall require its tenants or subtenants to keep, observe and perform all of the covenants, agreements, terms, conditions and provisions on their part to be kept, observed or performed under any and all leases, subleases, or easements; and shall not suffer or permit any breach or default to occur with respect to the foregoing; and in default thereof, Lender shall have the right to perform or to require performance of any such covenants, agreements, terms, conditions and provisions of any lease, sublease or easements. Except in the ordinary course of business, Borrower shall not, without the consent of Lender, consent to any modification or amendment of any lease, sublease or easement or to the, cancellation, termination or surrender of any lease, sublease or easement. Borrower shall not enter into any lease, sublease, or easement or make any modification or amendment that would violate any terms of the HOME Agreement or violate any of the HOME regulations governing this Property.

5. **Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured by carriers at all times satisfactory to Lender against loss by fire, hazards included within the term "extended coverage", rent loss and such other hazards, casualties, liabilities and contingencies as Lender shall require and in such amounts and for such periods as Lender shall require. Borrower shall also maintain commercial general liability insurance with Lender named as an additional insured in such amounts and for such periods as Lender may require. Borrower shall also maintain worker's compensation insurance, subject to the statutory limits of the State of Florida, and employer's liability insurance with a limit of no less than \$500,000.00 per accident, per employee.

All premiums on the foregoing insurance policies shall be paid by Borrower making payment, when due, directly to the carrier, or in such other manner as Lender may designate in writing.

All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgagee clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies or certificate of insurance with regard thereto, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty (30) days prior to the expiration date of a policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender.

In the event of loss, Borrower shall give immediate written notice to the insurance carrier and Lender. During the continuance of an Event of Default, Borrower hereby authorizes and empowers Lender as attorney in fact for such Borrower to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this paragraph shall require Lender to incur any expense or take any action hereunder. Borrower further authorizes Lender, at Lender's option, (a) to hold the balance of such proceeds to be used to reimburse Borrower for the cost of reconstruction or repair of the Property, or (b) to apply the balance of such proceeds to the payment of the sums secured by this Mortgage, whether or not then due. Lender shall permit the proceeds to be used to reconstruct if Borrower demonstrates there are sufficient funds for reconstruction and Borrower is not otherwise in default hereunder.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration

and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as Lender may approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Mortgage, any such application of proceeds to principal shall not extend or postpone the due dates of any future installments. If the Property is sold or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

6. **Preservation and Maintenance of the Property.** Borrower (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the standards required by HUD and its property standards requirement, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (e) shall comply with all laws, ordinances, regulations, and requirements of any governmental body applicable to the Property, and cure any violations within the time permitted by the applicable governing body, (f) shall use and operate, and shall require its lessees or licensees to use or operate, the Property in compliance with all applicable laws, ordinances, regulations, covenants, conditions and restrictions and with all applicable requirements of any lease or sublease now or hereafter affecting the Property, (g) shall operate and maintain the Property in a manner to ensure compliance with applicable U.S. Department of Housing and Urban Development (HUD) and HOME regulations, and (h) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security of this Mortgage or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any non-obsolete improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.

7. **Use of Property.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Mortgage was executed. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

8. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement or arrangements or proceedings involving a bankrupt or decedent, then Lender, at Lender's option after notice to the Borrower, may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (i) disbursement of attorney's fees, (ii) entry upon the Property to make repairs, and (iii) procurement of satisfactory insurance as provided in paragraph 5 hereof.

Any amounts disbursed by Lender pursuant to this paragraph shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable upon demand by Lender and shall bear interest from the date of disbursement at the Event of Default rate stated in the Note unless collection from Borrower of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Nothing contained in this paragraph shall require Lender to incur any expense or take any action hereunder.

9. **Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property at any time. If the Property requires repair, care or attention, after notice to Borrower, Lender may enter or cause entry to be made on the Property to repair, protect and maintain the Property as Lender may deem necessary after notice to the Borrower. Any and all money that the Lender must pay to accomplish the proper maintenance on the Property shall become due and payable under the provisions of the above paragraph.

10. **Books and Records.** Borrower shall keep and maintain at all times at Borrower's address stated above, or such other place as Lender may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property, compliance with all applicable HOME and federal regulations, compliance with the HOME Agreement and copies of all written contracts, leases and other mortgages or other interests which affect the Property. Such books, records, contracts leases, other documentation and mortgages shall be subject to examination and inspection at any reasonable time by Lender. Upon Lender's request, Borrower shall furnish to Lender, within one hundred and twenty (120) days after the end of each fiscal year of Borrower, a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and certified by Borrower and, if Lender shall require, by an independent certified public accountant.

11. **Condemnation.** Borrower shall promptly give written notification to Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney in fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking (provided, however, that so long as no Event of Default then exists, no compromise or settlement shall be made without the Borrower's consent, which consent shall not be unreasonably withheld). The proceeds of any award or payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sums secured by this Mortgage, whether or not then due, with the balance, if any, to Borrower.

12. **Assignment of Rents.** Borrower hereby collaterally assigns and transfers to Lender all the leases, subleases, franchises, rents, issues and profits of the Property, and hereby gives to and confers upon Lender the right, power and authority to collect such rents, issues and profits

as herein set forth. Borrower irrevocably appoints Lender its true and lawful attorney-in-fact for such purposes. Upon the occurrence and during the continuance of an Event of Default, not cured within any applicable grace period, under this Mortgage, Lender shall have the right, at its option, immediately and without further legal action being necessary, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Borrower or Lender, for all such rents, issues and profits and apply the same to the indebtedness secured hereby; provided, however, that Borrower shall have the right to collect, use and retain such rents, issues and profits (but not more than one month in advance) prior to or so long as there is not the continuance of an Event of Default under this Mortgage.

13. **Collection of Rents Upon Event of Default.** Upon and during the continuance of any Event of Default under this Mortgage, Lender may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property (but only by way of a court-appointed receiver or court order), or any part thereof, in its own name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon any indebtedness secured hereby, and in such order as Lender may determine. The collection of such rents, issues and profits, or the entering upon and taking possession of the Property, or the application thereof as aforesaid, shall not cure or waive any Event of Default or notice of Event of Default hereunder or invalidate any act done in response to such Event of Default or pursuant to such notice of Event of Default.

14. **Restriction on Further Assignments or Modifications.** Except in connection with (i) a construction loan from Bank of America, N.A., in the original principal amount of \$17,000,000, to be refinanced with a permanent loan from Neighborhood Lending Partners of Florida, Inc. ("NLP") in the original principal amount of approximately \$5,180,000.00, (ii) a loan from NLP of CDFI program funds in the original principal amount of \$500,000; (iii) a loan from Florida Housing Finance Corporation Viability Program Funds in the original principal amount of \$4,300,000; and (iv) a loan from Osceola County, Florida in the principal amount of \$4,500,000 (collectively, the "Senior Mortgages"), Borrower shall not, without the prior written consent of Lender, assign the rents, issues or profits, or any part thereof, from the Property or any part thereof. Borrower shall not enter into any lease, sublease, or easement, or make any modification or amendment that would violate any terms of the HOME Agreement or violate any of the HOME regulations governing this property. An action of Borrower in violation of the terms of this section shall be void as against Lender in addition to being an Event of Default under this Mortgage after applicable notice and cure periods. Lender agrees that its consent of any refinancing of the Senior Mortgages and subordination to any such refinancing request will not be unreasonably withheld; provided, however, none of the foregoing shall be construed or deemed to prohibit Borrower from leasing individual apartment units without the consent of Lender.

Borrower shall not, without the consent of Lender after the occurrence of an Event of Default, consent to the cancellation or surrender of, accept prepayment of rents, issues or profits more than thirty (30) days in advance under, any lease or sublease now or hereafter covering the Property or any part thereof, nor modify any such lease or sublease so as to shorten the term, decrease the rent, accelerate the payment of rent, or change the terms of any renewal option; and any such purported assignment, cancellation, surrender, prepayment or modification made without the written consent of Lender shall be void as against Lender. Borrower shall, upon demand of Lender, enter into an agreement with Lender with respect to the provisions contained in the preceding provision regarding any lease or sublease covering said Property or any part thereof, and Borrower hereby appoints Lender attorney-in-fact of Borrower to execute and deliver

any such agreement on behalf of Borrower and deliver written notice thereof to the tenant to whose lease such agreement relates. Borrower agrees to furnish to Lender a copy of all leases, any modification of any lease presently in effect and copies of all future leases affecting the Property covered by this Mortgage, and failure to furnish to Lender a copy of any modification of a lease or a copy of any future lease affecting said Property shall be deemed an Event of Default under this Mortgage after applicable notice and cure periods.

All leases or subleases hereafter entered into by Borrower with respect to the Property or any part thereof shall be subordinate to the lien of this Mortgage.

15. **Uniform Commercial Code Security Agreement.** This Mortgage is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. Borrower agrees that Lender may file this Mortgage, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Mortgage or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproductions of this Mortgage in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Except for the Senior Mortgages, without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Mortgage, Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided in this Mortgage as to such items.

In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in this Mortgage.

16. **Events of Default.** The following shall constitute an Event of Default under this Mortgage:

- (a) failure to pay any sum when due under the Note, this Mortgage or other documents executed in connection with this Project and such failure continues for ten (10) days after written notice by Lender to Borrower;
- (b) failure to comply with any HOME Program regulations including, but not limited to, 42 U.S.C. §§12701-12839, 24 CFR Part 92;
- (c) failure to comply with any of the terms contained in the HOME Agreement or uses the HOME funds other than as authorized by the HOME Agreement;
- (d) failure to timely comply with audit requirements;

(e) failure to expend HOME funds in a timely manner or fails to meet any of the time requirements as set forth in the HOME Agreement

(f) failure to rent the HOME-assisted units to Eligible Persons at Affordable rents for the Affordability Period as required in the HOME Agreement;

(g) Borrower is deemed in default under any other HOME or SHIP agreements it has with the Lender even if unrelated to this Project or Property or is in default under the terms of other financing or mortgages used for the Property or other projects and said default extends beyond the applicable cure period provided in said documents;

(h) if at any time any material omission or material representation made by Borrower in any written certification or communication submitted by Borrower to the Lender in an effort to induce the making of this loan or the administration thereof is determined by the Lender to be false, misleading, or incorrect in any material manner at the time made; or

(i) if any other default or breach of any term shall occur under the Note, Mortgage or any Loan Documents.

Notwithstanding any of the foregoing provisions to the contrary, prior to any noncompliance with the terms of this Agreement being deemed a default, breach, or Event of Default, Borrower shall be entitled to prior written notice and 30 days (10 days in the case of (a) above) to cure the same or longer if such cure is diligently pursued. If Borrower has failed to cure any Event of Default by any applicable cure period, the Lender may, at its sole option, cure such Event of Default, provided, however, that the Lender shall be under no duty or obligation to do so.

17. **Remedies.** Upon the occurrence and during the continuance of any Event of Default, or any other breach of this Mortgage, Lender may declare Borrower in default and the remedies available to Lender shall include, but not necessarily be limited to, any one or more of the following: (i) Lender may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding; (ii) Lender may take immediate possession of the Property or any part thereof by way of a court-appointed receiver as discussed in this Mortgage and manage, control or lease the same to such person and at such rental as it may deem proper and collect all rents, issues and profits therefrom; and (iii) Lender shall be free to terminate the HOME Agreement, withhold all funding and/or exercise all rights and remedies available to it under the terms of the HOME Agreement, the Loan Documents, under statutory law, federal or under common law. The City may also exercise any one or more of the actions contained in 24 CFR §85.43(a)(1-5).

18. **Remedies Cumulative.** Each remedy provided in this Mortgage is distinct and cumulative to all other rights or remedies under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively, in any order whatsoever.

19. **Borrower and Lien Not Released.** From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower or any junior lien holder, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Mortgage, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, accept a renewal note or notes therefor, modify the terms and time of payment of said indebtedness, with the consent of Borrower, release from the lien of this Mortgage any part of the Property, take or release other or additional security, re-convey any part of the Property, consent to any map or plan of the Property, consent to the granting of any

easement, or join in any extension or subordination agreement. Any actions taken pursuant to this paragraph shall not affect the obligation of Borrower to pay the sums secured by this Mortgage and to observe the covenants of Borrower contained herein and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender title insurance premiums and attorney's fees as may be incurred at Lender's option, for any such action if taken at Borrower's request.

20. **No Waiver.** Failure of the Lender to declare an Event of Default shall not constitute a waiver of any rights by the Lender. Furthermore, the waiver of any Event of Default by the Lender shall in no event be construed as a waiver of rights with respect to any other Event of Default, past or present.

21. **Appointment of Receiver; Lender in Possession.** Upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage which is not cured within any applicable cure period, Lender may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Mortgage. In the event Lender elects to seek the appointment of a receiver for the Property upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage after applicable notice and cure periods, Borrower hereby expressly consents to the appointment of such receiver. Lender or the receiver shall be entitled to receive a reasonable fee for managing the Property.

22. **Transfers of the Property or Beneficial Interests in Borrower; Assumption.** On sale or transfer of all or any part of the Property, or any interest therein, in any manner inconsistent with the HOME Agreement, Lender may, at Lender's option, declare all of the sums secured by this Mortgage to be immediately due and payable, and Lender may invoke any remedies permitted by this Mortgage or by state or federal law.

23. **Notice.** Except for any notice required under applicable law to be given in another manner, each notice, demand, consent or other approval (collectively, "notices" and singly, "notice") given under the Note, this Mortgage and any other Loan Document, shall be in writing to the other party, and if to Borrower, at its address set forth at the beginning of the Mortgage, and if to Lender, at its address set forth at the beginning of the Mortgage, or at such other address as such party may designate by notice to the other party and shall be deemed given (a) three (3) Business Days after mailing, by certified U.S. mail, return receipt requested, postage prepaid; (b) one (1) Business Day after delivery, fee prepaid, to a national overnight delivery service; or (c) when delivered, if personally delivered with proof of delivery thereof.

Borrower and Lender each agrees that it will not refuse or reject delivery of any notice given hereunder, that it will acknowledge, in writing, the receipt of the same upon request by the other party and that any notice rejected or refused by it shall be deemed for all purposes of this Mortgage to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service. As used in the Mortgage, the term "Business Day" means any day other than a Saturday, a Sunday or any other day on which Lender is not open for business.

24. **Successors and Assigns Bound; Joint and Several Liability; Agents; Captions.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to,

the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

25. **Governing Law and Severability.** This Mortgage shall be governed by the law of the State of Florida. In the event that any provision of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provisions, and to this end, the provisions of this Mortgage and the Note are declared to be severable. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in this Mortgage or in the Note, whether considered separately or together with other charges levied in connection with this Mortgage and the Note, violates such law, and Borrower is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation.

26. **Waiver of Statute of Limitations.** Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Mortgage or to any action brought to enforce the Note or any other obligation secured by this Mortgage.

27. **Attorney's Fees.** If this Mortgage is placed in the hands of an attorney for the collection of any sum payable hereunder or the enforcement of any provisions contained herein, Borrower agrees to pay all costs of collection, including reasonable attorneys' fees, including those in all appellate and bankruptcy proceedings incurred by Lender, either with or without the institution of any action or proceeding, and in addition to all costs, disbursements and allowances provided by law. All such costs so incurred shall be deemed to be secured by this Mortgage.

28. **Environmental Hazards.** Borrower covenants and agrees that Borrower shall not: (a) cause or permit the presence, use, generation, manufacture, production, processing, installation, release, discharge, storage (including aboveground and underground storage tanks for petroleum or petroleum products), treatment, handling or disposal of any Hazardous Materials (as defined below) (excluding the safe and lawful use and storage of quantities of Hazardous Materials customarily used in the operation and maintenance of comparable multi-family or commercial properties or for normal household or business purposes) on or under the Property, or in any way affecting the Property or its value, or which may form the basis for any present or future demand, claim or liability relating to contamination, exposure, cleanup or other remediation of the Property; or (b) cause or permit the transportation to, from or across the Property of any Hazardous Material (excluding the safe and lawful use and storage of quantities of Hazardous Materials customarily used in the operation and maintenance of comparable multi-family or commercial properties or for normal household or business purposes); or (c) cause or exacerbate any occurrence or condition on the Property that is or may be in violation of Hazardous Materials Law (as defined below). The matters described in (a), (b) and (c) above are referred to collectively below as "Prohibited Activities or Conditions".

Borrower represents and warrants that it has not at any time caused or permitted any Prohibited Activities or Conditions and to the best of its knowledge, except as set forth in any environmental assessment furnished by Borrower to Lender or previously remediated, no Prohibited Activities or Conditions exist or have existed on or under the Property. Borrower shall take all appropriate steps (including but not limited to appropriate lease provisions) to prevent its employees, agents and contractors, and all tenants and other occupants on the Property, from causing, permitting or

exacerbating any Prohibited Activities or Conditions.

If Borrower has disclosed that Prohibited Activities or Conditions exist on the Property, Borrower shall comply in a timely manner with, and cause all employees, agents and contractors of Borrower and any other persons present on the Property to so comply with (1) any program of operation and maintenance ("O&M Program") relating to the Property that is acceptable to Lender with respect to one or more Hazardous Materials (which O&M Program may be set forth in an agreement of Borrower (an "O&M Agreement")) and all other obligations set forth in any O&M Agreement, and (2) all Hazardous Materials Laws. Any O&M Program shall be performed by qualified personnel. All costs and expenses of the O&M Program shall be paid by Borrower, including without limitation Lender's fees and costs incurred in connection with the monitoring and review of the O&M Program and Borrower's performance thereunder. If Borrower fails to timely commence or diligently continue and complete the O&M Program and comply with any O&M Agreement, then Lender may, at Lender's option, after applicable notice and cure periods, declare all of the sums secured by the Mortgage to be immediately due and payable, and Lender may invoke any remedies permitted by this Mortgage.

Borrower represents that Borrower has not received, and has no knowledge of the issuance of, any claim, citation or notice of any pending or threatened suits, proceedings, orders or governmental inquiries or opinions involving the Property that allege the violation of any Hazardous Materials Law ("Government Actions").

Borrower shall promptly notify Lender in writing of: (i) the occurrence of any Prohibited Activity or Condition on the Property; (ii) Borrower's actual knowledge of the presence on or under any adjoining property of any Hazardous Materials which can reasonably be expected to have a material adverse impact on the Property or the value of the Property, discovery of any occurrence or condition on the Property or any adjoining real property that could cause any restriction on the ownership, occupancy, transferability or use of the Property under Hazardous Materials Law; Borrower shall cooperate with any governmental inquiry and shall comply with any governmental or judicial order which arises from any alleged Prohibited Activities or Conditions; (iii) any Governmental Action; and (iv) any claim made or threatened by any third party against Borrower, Lender or the Property relating to loss or injury resulting from any Hazardous Materials. Any such notice by Borrower shall not relieve Borrower of or result in a waiver of any obligation of Borrower.

Borrower shall pay promptly the costs of any environmental audits, studies or investigations (including but not limited to advice of legal counsel) and the removal of any Hazardous Materials from the Property required by Lender as a condition of its consent to any sale or transfer of all or any part of the Property or any transfer occurring upon a foreclosure or a deed in lieu of foreclosure or any interest therein, or required by Lender following a reasonable determination by Lender that there may be Prohibited Activities or Conditions on or under the Property. After reasonable prior notice to Borrower, Borrower authorizes Lender and its employees, agents and contractors to enter onto the Property for the purpose of conducting such environmental studies, audits and investigations. Any such costs and expenses incurred by Lender (including but not limited to fees and expenses of attorneys and consultants, whether incurred in connection with any judicial or administrative process or otherwise) which Borrower fails to pay promptly shall become immediately due and payable and shall become additional indebtedness secured by the Mortgage.

Borrower shall hold harmless, defend and indemnify Lender and its officers, directors, trustees, employees and agents from and against all proceedings (including but not limited to Government Action), claims, damages, penalties, costs and expenses (including without limitation fees and

expenses of attorneys and expert witnesses, investigatory fees and cleanup and remediation expenses, whether or not incurred within the context of the judicial process), arising directly or indirectly from (i) any breach of any representation, warranty or obligation of Borrower contained in this paragraph, or (ii) the presence or alleged presence of Hazardous Materials on or under the Property.

The term "Hazardous Materials" for purposes of this paragraph includes petroleum and petroleum products, flammable explosives, radioactive materials (excluding radioactive material in smoke detectors), polychlorinated biphenyls, lead, asbestos in any form that is or could become friable, hazardous waste, toxic or hazardous substances or other related materials whether in the form of a chemical, element, compound, solution, mixture or otherwise including, but not limited to, those materials defined as "hazardous substances," "extremely hazardous substances," "air pollutants," "toxic pollutants," "hazardous wastes," "extremely hazardous waste," or "restricted hazardous waste" by Hazardous Materials Law or regulated by Hazardous Materials Law in any manner whatsoever.

The term "Hazardous Materials Law" for the purposes of this paragraph means all federal, state and local laws, ordinances and regulations and standards, rules, policies and other binding governmental requirements and any court judgments applicable to Borrower or to the Property relating to industrial hygiene or to environmental or unsafe conditions or to human health including, but not limited to, those relating to the generation, manufacture, storage, handling, transportation, disposal, release, emission or discharge of Hazardous Materials, those in connection with the construction, fuel supply, power generation and transmission, waste disposal or any other operations or processes relating to the Property, and those relating to the atmosphere, soil, surface and ground water, wetlands, stream sediments and vegetation on, under, in or about the Property.

The representations, warranties, covenants, agreements, indemnities and undertakings of Borrower contained in this paragraph shall be in addition to any and all other obligations and liabilities that Borrower may have to Lender under applicable law.

The representations, warranties, covenants, agreements, indemnities and undertakings of Borrower contained in this paragraph shall continue and survive notwithstanding the satisfaction, discharge, release, assignment, termination, subordination or cancellation of the Mortgage or the payment in full of the principal of and interest on the Note and all other sums payable under the Loan Documents or the foreclosure of the Mortgage or the tender or delivery of a deed in lieu of foreclosure or the release of any portion of the Property from the lien of the Mortgage, except with respect to any Prohibited Activities or Conditions or violation of any of the Hazardous Materials Laws which first commences and occurs after the satisfaction, discharge, release, assignment, termination or cancellation of the Mortgage following the payment in full of the principal of and interest on the Note and all other sums payable under the Loan documents or which first commences or occurs after the actual dispossession from the entire Property of the Borrower and all entities which control, are controlled by, or are under common control with the Borrower (each of the foregoing persons or entities is hereinafter referred to as a "Responsible Party") following foreclosure of the Mortgage or acquisition of the Property by a deed in lieu of foreclosure or a transfer of the Property with the Lender's consent. Nothing in the foregoing sentence shall relieve the Borrower from any liability with respect to any Prohibited Activities or Conditions or violation of Hazardous Materials Laws where such Prohibited Activities or Conditions or violation of Hazardous Material Laws commences or occurs, or is present as a result of, any act or omission by any Responsible Party or by any person or entity acting on behalf of a Responsible Party.

29. **Waiver of Jury Trial.** Borrower (i) covenants and agrees not to elect a trial by jury with respect to any issue arising under any of the Loan Documents triable by a jury and (ii) waives any right to trial by jury to the extent that any such right shall now or hereafter exist. This waiver of right to trial by jury is separately given, knowingly and voluntarily with the benefit of competent legal counsel by the Borrower and this waiver is intended to encompass individually each instance and each issue as to which the right to a jury trial would otherwise accrue. Further, Borrower hereby certifies that no representative or agent of the Lender (including but not limited to Lender's counsel) has represented, expressly or otherwise, to Borrower that Lender will not seek to enforce the provisions of this paragraph.

30. **Non-Recourse.** Notwithstanding anything contained herein or the other Loan Documents to the contrary, payment and performance of the obligations set forth herein and in the other Loan Documents shall be non-recourse to Borrower and its members and Lender's sole recourse with respect to the Loan shall be the right to foreclose on the collateral securing the Loan Documents.

IN WITNESS WHEREOF, Borrower has executed this Mortgage or has caused the same to be executed by its representatives thereunto duly authorized.

Signed in the presence of two witnesses:

OWNER

Pinnacle at the Wesleyan, LLC, a Florida limited liability company

Signature

Print Name:

By: PC Wesleyan, LLC, a Florida limited liability company, its Authorized Member

Signature

Print Name:

By: _____

Name: David O. Deutch

Title: President

CORPORATE ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

THE FOREGOING was acknowledged before me this _____ day of _____, 2023, by David O. Deutch, as President of PC Wesleyan, LLC, a Florida limited liability company, the Authorized Member of Pinnacle at the Wesleyan, LLC, a Florida limited liability company. He/She is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC

Print Name:

My Commission Expires:

MORTGAGE EXHIBIT "B"

Lot 3, SHINGLE CREEK PLAZA, according to the Plat thereof, recorded in Plat Book 7, page 2, of the Public Records of Osceola County, Florida.

RIDER TO MORTGAGE DATED NOVEMBER __, 2023, BETWEEN CITY OF KISSIMMEE ("Lender") AND PINNACLE AT THE WESLEYAN, LLC, A FLORIDA LIMITED LIABILITY COMPANY ("Borrower"), CONCERNING PROPERTY LOCATED IN THE CITY OF KISSIMMEE, FLORIDA, COMMONLY KNOWN AS PINNACLE AT THE WESLEYAN ("Project").

The Lender agrees to the following terms set forth in this Rider with respect to the \$500,000.00 loan from the Lender to the Borrower ("Loan").

The Lender will give Bank of America, N.A., together with its successors and assigns ("Investor Member") a copy of any written notice it gives to the Borrower under the Loan Documents, at the following address:

Bank of America, N.A.
MA5-100-04-11
100 Federal Street
Boston, Massachusetts 02110
Attn: Tax Credit Asset Management
(Pinnacle at the Wesleyan)

With a copy to:
Holland & Knight LLP
10 St. James Avenue
Boston, MA 02116
Attention: Sara Heskett

The Lender will give the Investor Member 10 days after the Investor Member's receipt of such notice to cure a non-payment of any sum due under the Loan Documents.

The Lender will give the Investor Member 30 days after the Investor Member's receipt of such notice to cure any other default under the Loan Documents.

If a default is incapable of being cured within 30 days, the Lender will give the Investor Member such additional time as is reasonably necessary to cure such default provided it has commenced to cure such default within 30 days and diligently proceeds to cure such default.

If the Investor Member makes any such payment or otherwise cures such default, the Lender will accept such action as curing the respective default under the Loan Documents.

The Lender will permit the Investor Member to transfer its membership interest in Borrower to any person or entity at any time provided that, if at such the Investor Member has not made 100% of the capital contributions it is required to make to the Borrower, the Investor Member shall only have the ability to transfer its investor interest to an organization that has experience investing in low-income housing tax credits within the state of Florida. Investor Member shall provide the Lender with prompt written notice of such transfer.

With written notice provided to the Lender, the Lender will permit the Investor Member to remove the authorized member of the Borrower in accordance with the Borrower's amended and restated operating agreement, provided that the substitute authorized member shall be acceptable to the Lender in its reasonable discretion. An affiliate of the Investor Member shall be an acceptable substitute authorized member.

Investor Member is intended to be a direct beneficiary of the covenants set forth in this Rider and shall be entitled to bring an action to enforce the same independent of any rights of the Borrower.

This Rider may be executed in multiple counterparts, each of which shall be deemed to be an original.

CITY OF KISSIMMEE, a municipal corporation
of the State of Florida

BY: _____

Name: _____

Title: _____

ATTEST:

Linda Hansell, City Clerk

EXHIBIT "E"

DECLARATION OF RESTRICTIVE COVENANT AND RESTRICTIONS

This **DECLARATION OF RESTRICTIVE COVENANT AND RESTRICTIONS** is made this _____ day of _____, 2023, by **The Pinnacle at the Wesleyan, LLC**, a Florida limited liability company, with a principal address of 9100 S. Dadeland Blvd., Suite 700, Miami, Florida 33156 (hereinafter referred to as "Owner"), in favor of the **City of Kissimmee**, a Florida municipal corporation (hereinafter referred to as "City").

WHEREAS, City, as a member of the Osceola HOME Consortium, has available HOME funds to construct multifamily rental units for the purpose of providing decent, safe, and affordable housing; and

WHEREAS, Owner is the fee simple owner of property generally located on 4151, 4160, 4171, 4181 and 4190 Wesley Creekside Drive, Kissimmee, Florida 34741 more particularly described as follows:

See Exhibit "A"

(hereinafter the "Property"); and,

WHEREAS, the Owner has designated ten (10) units on the Property as "HOME-assisted" units; and

WHEREAS, the City and Owner entered into a HOME Program Agreement wherein federal HOME Investment Partnership Program funds have been provided for construction of the Property and pursuant to federal regulations, 24 CFR §92.252 requires that certain affordability requirements be met for a certain period of time on the HOME-assisted units.

WHEREAS, Owner and City wish to ensure that the HOME-assisted units continue to be maintained as affordable housing for rent to Very Low and Sixty Percent Income families, as applicable, at Affordable rents for a period of twenty (20) years, from the date of Project Completion, regardless of any subsequent changes in ownership of the Property.

NOW, THEREFORE, Owner declares that said Property shall be held, transferred, encumbered, used, sold, conveyed, and occupied, subject to the covenants hereinafter set forth expressly and exclusively for the use and benefit of said Property and of each and every person or entity who now or in the future owns any portion or portions of the Property.

1. **RESTRICTION OF USE TO AFFORDABLE HOUSING.** The ten (10) HOME-assisted units shall be deemed floating units providing Owner with the flexibility to designate different units at the Property at different times as HOME-assisted units, which HOME-assisted units must be rented and occupied and are restricted as follows: two (2) units shall be rented and occupied by Very Low Income (50%) persons or families at or below LOW Home rents, and eight (8) units shall be rented and occupied by Sixty Percent (60%) persons or families at or below HIGH Home rents, all as from time to time defined by HUD, or any successor entity, at such maximum rental rates determined by HUD. Notwithstanding the foregoing, if the annual income of a tenant which was qualified as a Very Low Income person or family or a Sixty Percent person or family shall be determined upon reexamination to exceed the applicable income limit, the unit shall continue to be counted as occupied by a Very Low Income or Sixty Percent person or family, as applicable during such tenant's continued occupancy of the unit, and Owner shall not be considered out of compliance with this Declaration of Restrictive Covenant and Restrictions provided Owner shall rent the next available unit to a Very Low Income or Sixty Percent person or family, as applicable. The Property must at all times meet the property standards set forth in 24 CFR §92.251 and meet the accessibility requirements contained in 24 CFR Part 8, and all applicable local codes, or such successive regulations which may be adopted by HUD. The HOME Program Agreement executed by and between Pinnacle at the Wesleyan, LLC. and the City of Kissimmee dated _____, 2023, on file with the City Clerk's Office contains additional requirements and restrictions and is hereby incorporated herein by reference and made a part hereof, including the terms and definitions contained therein. All terms not defined herein shall have the meaning described to said terms in the HOME Program Agreement.

2. **BINDING NATURE OF COVENANTS.** These covenants shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date of Project Completion (the "Affordability Period") as that term is defined in 24 CFR Part 92 and the HOME Program Agreement between Owner and the City and shall become null and void at the end of the Affordability Period.

3. **ENFORCEMENT OF DECLARATION OF RESTRICTIVE COVENANT.** Enforcement of

the foregoing restrictive covenant shall be by proceedings at law or in equity against any person or persons violating or attempting to violate such covenant to restrain violation. Such action may be brought by the City of Kissimmee, or by the United States Department of Housing and Urban Development.

4. **ATTORNEYS' FEES.** Any person who successfully brings an action for enforcement of this Restrictive Covenant shall be entitled to recover reasonable attorneys' fees and costs for such action, including any successful appellate proceedings, from the then owner of the affected portion or portions of the Property.

IN WITNESS WHEREOF, Owner has executed this Declaration of Covenants and Restrictions, the day and year first above written.

Signed in the presence of two witnesses:

OWNER

Pinnacle at the Wesleyan, LLC, a Florida limited liability company

Signature

By: PC Wesleyan, LLC, a Florida limited liability company, its Authorized Member

Print Name: _____

Signature

By: _____

Name: David O. Deutch

Print Name: _____

Title: President

CORPORATE ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

THE FOREGOING was acknowledged before me this _____ day of _____, 2023, by David O. Deutch, as President of PC Wesleyan, LLC, a Florida limited liability company, its Authorized Member, Pinnacle at the Wesleyan, a Florida limited liability company. He/She is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

DECLARATION OF RESTRICTIVE COVENANT AND RESTRICTIONS

EXHIBIT "A"

PROPERTY LEGAL DESCRIPTION

Lot 3, SHINGLE CREEK PLAZA, according to the Plat thereof, recorded in Plat Book 7, page 2, of the Public Records of Osceola County, Florida.

EXHIBIT "F"

BUDGET

TASKS TO BE PERFORMED – New construction of a ninety-six (96) unit rental development for households with an income not to exceed 60% of the area median income, of which ten (10) HOME units are to be set aside as HOME assisted units.

Project shall commence within six (6) months of the execution of this agreement. At least 60% shall be completed by October 31, 2024 and the construction of all of the units must be completed by January 31, 2025. The project final completion date shall be August 31, 2025.

USES OF FUNDS:

Description of Work	Project Costs	HOME funds allocated
Initial Site Improvements (entry, construction trailer, temp. power)	\$212,391.00	\$212,391.00
Clearing / Grubbing / Site Demolition	\$65,910.00	\$65,910.00
Earth Work / Erosion Control	\$428,654.00	\$100,000.00
Site Utilities (Sewer, Storm, Water)	\$1,792,208.00	\$100,000.00
Fire Lines	\$148,659.00	\$21,699.00
TOTAL	\$2,647,822.00	\$500,000.00

EXHIBIT "G"

REQUEST FOR PARTIAL PAYMENT

TO: City of Kissimmee

FROM: The Pinnacle at the Wesleyan, LLC

PROJECT ADDRESS: W Vine Street, Kissimmee, FL 34741

AMOUNT FUNDED: \$500,000

REQUESTED AMOUNT: _____

I certify that _____% of the construction work on the above referenced Project has been completed according to the HOME Agreement between the above and the City of Kissimmee.

Said work consists of:

Therefore, I request that the City of Kissimmee pay a partial/full payment in the amount of \$_____.

Authorized Signature

Date

EXHIBIT "H"

CONTRACTOR'S INVOICE, PARTIAL RELEASE OF LIENS, AND WARRANTY

PROPERTY: **Pinnacle at the Wesleyan Apartments**

CONTRACTOR: _____

CONTRACT DATED: _____

TOTAL CONTRACT AMOUNT: \$ _____

ADDENDUM DATED:

1. As a partial invoice, the undersigned hereby certifies that there is due and payable by the Owner to the Contractor under the above Contract the balance or sum of \$.
2. The undersigned further certifies that all work required under this contract has been performed in accordance with the terms thereof, and that there are no unpaid claims for materials, supplies, or equipment, no unpaid claims of sub-contractors, and no claims of laborers or mechanics for unpaid wages arising out of the performance of this contract.
3. That in consideration of the payment of the amount stated in Paragraph 1 hereof, the undersigned does release the Owner from any and all claims arising under or by virtue of this contract; provided, however, that if for any reason the Owner does not pay in full the amount stated in Paragraph 1 thereof said deduction shall not affect the validity of this release.

=====

This Release is conditioned upon payment of check issued on the account of _____ in the amount of \$ _____; otherwise, this Release of Lien is VOID.

Dated this _____ day of _____, 2023.

Company Name

(Signature)

(Print Name/Title)

EXHIBIT "I"
CONTRACTOR'S FINAL PAYMENT AFFIDAVIT AND WAIVER AND FINAL RELEASE OF LIEN

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____
(hereafter "Affiant") who after being duly sworn deposes and says of his or her personal knowledge the following:

1. Affiant is the _____ of _____ which does
business in the _____
(title) (Name of Contractor's Business)
State of Florida, hereinafter called the "Contractor."

2. Contractor, pursuant to a contract with _____, (Owner
or its authorized agent), hereinafter referred to as the Owner, has furnished or caused to be
furnished labor, material, and services for the construction of certain improvements to Real
Property as more particularly set forth in said contract(s).

3. This Affidavit is executed by Contractor in accordance with §713.06(3)(d) of the
Florida Statutes for the purpose of obtaining a final payment from the Owner in the amount of
\$_____.

4. All work to be performed under the contract has been fully completed, and all lienors
under the direct contract have been paid in full, except the following listed lienors:

NAME OF LIENOR	AMOUNT DUE
1.	
2.	
3.	
4.	
5.	

5. In consideration of final payment to the Contractor in the amount of
\$_____, and all other previous payments paid by the Owner to the Contractor, the
undersigned hereby for and on behalf of Contractor, waives and releases its lien and right to claim
of lien for labor, services, or materials furnished to the Owner.

6. Affiant is fully authorized to execute a full and final release of lien for Contractor.

Signed, sealed, and delivered this _____ day of _____, 20_____.

NAME OF CONTRACTOR'S BUSINESS

By: _____
NAME OF AFFIANT, TITLE

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____,

20_____, by _____, who is personally known to
me or produced _____ as identification and who did take an oath.

NOTARY PUBLIC
MY COMMISSION EXPIRES:

EXHIBIT “J”

TENANT QUALIFICATION PACKET

The Tenant Qualification packet must include the following:

1. City Assistance Application
2. Client Tax Returns, if applicable
3. Income verification
 - Third party verification, if available
 - 2 months of recent paystubs
 - Alternatives sources of income
 - Social Security
 - Social Security Income
 - Unemployment
 - Child Support
 - Alimony
4. Asset verification
 - Bank Statements (for checking accounts – provide most recent 6 months and for savings accounts – provide most current statement)
 - 401k/retirement/investment

ANNUAL INCOME AS DEFINED IN 24 CFR PART 5

The Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12- month period.

For additional guidance, refer to the “Technical Guide for Determining Income and Allowances for the HOME Program”, Third Edition, January 2005.

EXHIBIT "K"

**RESIDENT INCOME CERTIFICATION - RENTAL HOUSING
HOME Program***

Property Name **Dillingham Apartments**

A. Effective Date: _____ Initial Certification (IC)
Move-In Date: _____ Annual Recertification (AR)

B. **Subsidy Use** (check one)

☐	Multifamily Rental	☐	Other
☐	Transitional Housing	☐	

C. **Household Information**

Member	Names - All Household Members	Relationship	Age
1			
2			
3			
4			
5			
6			
7			

D. **Assets:** All household members including minors

Member	Asset Description	Cash Value	Income from Assets
1			
2			
3			
4			
5			
6			
7			

Total Cash Value of Assets	D(a))	\$	
Total Income from Assets		D(b)	\$
If line D(a) is greater than \$5,000, multiply that amount by the rate specified by HUD (applicable rate _____%) and enter results in D(c), otherwise leave blank.		D(c)	\$

*or a Resident Income Certification form approved by Florida Housing Finance Corporation in lieu hereof.

E. **Anticipated Annual Income:** Includes unearned income and support paid on behalf of minors.

Member	Wages / Salaries (include tips, commission, bonuses and overtime)	Benefits / Pensions	Public Assistance	Other Income	Asset Income
1					(Enter the greater of box D(b) or box D(c), above, in box E(e) below)
2					
3					
4					
5					
6					
7					
	(a)	(b)	(c)	(d)	(e)
Totals	\$	\$	\$	\$	\$
Enter total of items E(a) through E(e). This amount is the Annual Anticipated Household Income					\$

F. **Resident Statement:** The information on this form is to be used to determine maximum income for eligibility. I/we have provided, for each person set forth in Item C, acceptable verification of current and anticipated annual income. I/we certify that the statements are true and complete to the best of my/our knowledge and belief and are given under penalty of perjury.

WARNING: Florida Statute 817 provides that willful false statements or misrepresentation concerning income and assets or liabilities relating to financial condition is a misdemeanor of the first degree and is punishable by fines and imprisonment provided under S 775.082 or 775.83.

Date _____

Signature of Head of Household

Date _____

Signature of Spouse or Co-Head of Household

G. **Administrator Statement:** Based on the representations herein, and upon the proofs and documentation submitted pursuant to item F, hereof, the family or individual(s) named in item C of this Resident Income Certification is/are eligible under the HOME provisions and

the family or individual(s) constitute(s) a: (check one)

Extremely Low Income (ELI) Household means individuals or families whose annual income does not exceed 30% of the area median income as determined by the U.S. Department of Housing and Urban Development with adjustments for household size (maximum Income Limit \$ _____).

Very Low Income (VLI) Household means individuals or families whose annual income does not exceed 50% of the area median income as determined by the U.S. Department of Housing and Urban Development with adjustments for household size (maximum Income Limit \$ _____).

Sixty Percent Income Household means individuals or families whose annual income does not exceed 60% of the area median income as determined by the U.S. Department of Housing and Urban Development with adjustments for household size (maximum Income Limit \$ _____).

Eighty Percent Income Household means individuals or families whose annual income does not exceed 80% of the area median income as determined by the U.S. Department of Housing and Urban Development with adjustments for household size (maximum Income Limit \$ _____).

Based upon the _____ (year) income limits for _____
Metropolitan Statistical Area (MSA) or County, Florida.

Signature of the Administrator or His/Her Designated Representative:

Name _____

Signature _____

Title _____

Date _____

H. Household Data (to be completed by Administrator or designee)

Number of Persons									
By Race / Ethnicity						By Age			
White	Black	Hispanic	Asian	American Indian	Other	0 - 25	26 - 40	41 - 61	62 +

Unit Information	Special Target / Special Needs (Check all that apply)
-------------------------	---

Number of Residents	Tenant Rent	# of Bedr ooms

Farmworker	Developmentally Disabled	Homeless	Elderly	Other

NOTE: Information concerning the race or ethnicity of the occupants is being gathered for statistical use only. No occupant is required to give such information unless he or she desires to do so, and refusal to give such information will not affect any right he or she has as an occupant.

EXHIBIT "L"

CERTIFICATION OF GOVERNMENTAL ASSISTANCE*

PROJECT NAME: **Pinnacle at the Wesleyan**

I, _____, Owner _____ or Owner's Representative _____
hereby certify the following:

1. _____ The following governmental assistance has been or is to be provided to the
Project:

_____ (Amount)	_____ (Source)
-------------------	-------------------

_____ (Amount)	_____ (Source)
-------------------	-------------------

_____ (Amount)	_____ (Source)
-------------------	-------------------

OR

2. _____ No governmental assistance has been provided at the time of application
for HOME funding nor is any government assistance anticipated in the future.

I also certify that should other governmental assistance be sought in the future, the City of
Kissimmee will be notified within 15 days of application for other government assistance.

(Signature)

(Date)

*Governmental assistance includes any loan, grant, (including Community Development Block Grant), guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the federal, state or local government for use in, or in connection with, a specific housing project.

EXHIBIT “M”

OSCEOLA HOME CONSORTIUM AFFIRMATIVE FAIR HOUSING MARKETING PLAN POLICY AND PROCEDURES

I. INTRODUCTION

This Affirmative Fair Housing Marketing Plan (“Marketing Plan”) is developed for use with the HOME Investment Partnership (“HOME”) Program and HOME-funded projects in accordance with the HOME Program regulations, including but not limited to 24 CFR 92.351, of the U.S. Department of Housing and Urban Development (“HUD”) regulations. The HOME Program has established procedures to affirmatively market all projects resulting in five (5) or more HOME-assisted housing units. The Plan is based on the commitment of the Osceola HOME Consortium (“the Consortium”), Consortium members, and the owners of HOME assisted development projects to affirmatively further Fair Housing (“owners”). It states the Consortium’s policy to affirmatively market the distribution of its annual HOME allocation and housing units acquired, constructed or rehabilitated under the HOME Program and describes the procedures to follow.

The Consortium has the responsibility to inform the public about the Federal Fair Housing laws, to solicit eligible persons without regard to race, color, religion, sex, national origin, familial status, or disability into the affordable housing market and to evaluate the effectiveness of these marketing efforts. If the written agreement with the project owner permits the rental housing project to limit tenant eligibility or to have a tenant preference in accordance with §92.253(d)(3), the affirmative marketing procedures and requirements must apply in the context of the limited/preferred tenant eligibility for the project.

Citizens, public agencies, and other interested parties may review information and records relating to the Affirmative Fair Housing Marketing Plan. The Marketing Plan is posted on the Osceola County Human Services Department website and on the City of Kissimmee Development Services Department website.

II. METHODS TO DISSEMINATE AFFIRMATIVE FAIR HOUSING MARKETING REQUIREMENTS

The Consortium will use the following methods to inform the public, potential tenants, potential homeowners, potential and existing for-profit Owners, and potential and existing non-profit Owners, and local units of government about Federal Fair Housing laws and Affirmative Fair Housing Marketing Plan and Procedures.

A. The Osceola HOME Consortium members shall be responsible for implementing the Marketing Plan and evaluating its effectiveness as required by the HOME Program.

B. The Consortium shall inform the community about its Affirmative Marketing Plan through periodic updates at public forums, Fair Housing meetings as well as training workshops with its HOME and CHDO grantees or other similar forums.

C. At the time of HOME funding for rental housing development, the Consortium will provide the Owner of the HOME assisted project with copies of fair housing brochures. The Grantee shall provide initial tenants and rental property owners with copies of these brochures.

D. The Consortium will continue to provide general information and telephone reference numbers to persons contacting the Osceola County Human Services Department and/ or the City of

Kissimmee Housing and Community Development Division with questions regarding Affirmative Marketing and Federal Fair Housing laws.

III. CONSORTIUM AFFIRMATIVE FAIR HOUSING MARKETING REQUIREMENTS

The Consortium will, at least annually, adhere to the following, or similar, Marketing Plan policies regarding announcement of availability of HOME funds:

- A. Post a notice of HOME funding availability on the City's and County's websites.
- B. Advertise in the Orlando Sentinel and/or Osceola News Gazette and other neighborhood/local newspapers (if available).
- C. Establish and maintain a database of potentially qualified for-profit and non-profit Owners and direct mail invitations to apply for funding.

IV. CONSORTIUM REQUIRED AFFIRMATIVE FAIR HOUSING MARKETING RECORD KEEPING

In order to verify that the Consortium is following Marketing Plan requirements the following record keeping procedures will be required:

- A. The Consortium will maintain records of how HOME funding availability was advertised (copies of advertisements, e-mails, etc.).
- B. Copies will be maintained of all training materials and meeting agendas where the Consortium's Affirmative Marketing Policy was discussed.

V. AFFIRMATIVE FAIR HOUSING MARKETING REQUIREMENTS FOR OWNERS OF HOME ASSISTED DEVELOPMENT PROJECTS

Each Owner of a HOME assisted development project must adhere to the following Affirmative Fair Housing Marketing Plan policies when HOME assisted housing units become available for rent or purchase:

- A. Incorporate an Equal Housing Opportunity statement or logo in any correspondence associated with rental or home ownership opportunities developed with the use of Consortium HOME funds.
- B. All marketing of HOME-assisted housing will be jurisdiction-wide and all advertising will be placed in sources of wide circulation. All ads must contain an Equal Housing Opportunity statement or logo in conformance with HUD's Fair Housing Advertising policies and guidelines.
- C. Media sources should include advertisement to a particular audience (e.g., newspaper or radio stations that serve protected classes).
- D. All advertisements, brochures, and other written materials should be published in at least English and Spanish, in order to reach non-English speaking audiences and displayed.
- E. Contact should be made with organizations whose membership or clientele consists primarily of protected class members.

F. The project owner must display the Equal Opportunity logo and Fair Housing poster (HUD 928.1) in an area accessible to the public (e.g., rental office).

G. The Affirmative Fair Housing Marketing Plan must be made available for public inspection in the on-site project office and/or management office from which these units are administered.

H. The telephone number(s) of the telecommunication devices for the deaf (TDDs or TTY) must appear on all correspondence and outreach materials.

VI. AFFIRMATIVE MARKETING RECORD KEEPING REQUIREMENTS FOR OWNERS OF HOME ASSISTED PROJECTS

In order to verify that Owners of HOME assisted projects are following the Marketing Plan, the Consortium requires the following record keeping procedures will be required:

- A. Owner maintains records of how vacancies were advertised (copies of advertisements, etc.).
- B. Copies of all brochures, leaflets, and letters to community contacts shall be maintained in an easily accessible file.
- C. Owner shall have a written policy that outlines how all applications will be reviewed and processed. Records should show how all completed and filed applications were processed including whether an applicant was accepted or unaccepted and why an applicant was not accepted.
- D. Maintenance of information on the race, sex, ethnicity, and whether the applicant is disabled for all applicants, home buyers, and tenants. The Consortium will have the Owner submit this information on at least an annual basis to coincide with the Consortium's submission of its Consolidated Annual Performance and Evaluation Report ("CAPER").
- E. To facilitate collection and reporting of the required data, the Grantee shall fill out and maintain form HUD-935.2 *Affirmative Fair Housing Marketing Plan*.

This information will be gathered when an application is taken for either a tenant or a home buyer and information will be maintained during the entire affordability period.

VII. CONSORTIUM ASSESSMENT OF ITS AFFIRMATIVE MARKETING EFFORTS

The following actions will be taken by the Consortium to evaluate the success of its affirmative fair housing marketing efforts and that of its Owners:

- A. The Consortium will assess the results of its Affirmative Fair Housing Marketing Plan annually with a summary of "good faith efforts" taken by the Consortium in the CAPER.
- B. The Consortium will compare assessment information and evaluate the degree to which statutory and policy objectives were met. If the required steps were taken, the Consortium will determine that good faith efforts have, in fact, been made.
- C. To determine results, the Consortium may examine whether specific groups in the Consortium's service area applied for or became tenants or owners of HOME funded units that were affirmatively marketed. If the Consortium finds that specific groups are represented, particularly Hispanics, African Americans, Asians, American Indians, persons with

disabilities, and women, the Consortium will assume that the Marketing Plan procedures were effective. If one or more groups are not represented within the context of existing neighborhood composition, the Consortium will review its procedures to determine what changes, if any, might be made to make the affirmative marketing efforts more effective.

- D. The Consortium will take corrective action if it is determined that an Owner of the HOME assisted project has failed to carry out affirmative marketing efforts as required. If an Owner continues to neglect responsibilities made incumbent by the terms of the HOME Agreement, the Consortium will consider taking one or both of the following actions: 1. Declare the Owner disqualified from any further assistance made available under the HOME Program. 2. Notify the Owner of the HOME assisted project that was in violation of the terms of the HOME Agreement and the Consortium may exercise its right to require immediate repayment of the HOME funding.
- E. The Consortium will not proceed with corrective action without allowing time and effort by staff to counsel the Owner of the HOME assisted project in accordance with the terms of the HOME Agreement.

EXHIBIT "N"
QUARTERLY/FINAL REPORT

A. Project Information

Agency: The Pinnacle at the Wesleyan, LLC

Project Title: Pinnacle at the Wesleyan Apartments

Project Start Up Date: _____

Estimated Project Completion Date: _____

B. Project Financial Summary

%

	Amount	Funds Invoiced to Date	Percentage (%)
Other Funding			
HOME Funding			
Total Funding			

Percentage of Project Completed to Date: _____% (Monthly ____ Final ____)

C. Comments (Please answer all questions)

1. Describe specific tasks completed this month.

2. Describe any unforeseen obstacles that have come up this month that will prevent you from carrying out the project as agreed.

EXHIBIT "O"

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grant and contracts under grants, and cooperative agreements) and that Owner shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed 31 U.S.C. §1352. Any person who fails to file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

OWNER

Pinnacle at the Wesleyan, LLC, a Florida
limited liability company

By: PC Wesleyan, LLC, a Florida limited
liability company, its Authorized
Member

By: _____

Name: David O. Deutch

Title: President

THIS INSTRUMENT PREPARED
BY AND RETURN TO:

ABOVE SPACE RESERVED FOR
RECORDING PURPOSES ONLY

SUBORDINATION AGREEMENT

(Pinnacle at the Wesleyan)

THIS SUBORDINATION AGREEMENT (this “**Agreement**”) is made and entered into as of November _____, 2023, by and among (i) OSCEOLA COUNTY, FLORIDA, a political subdivision of the State of Florida (“**Senior Lender**”), (ii) CITY OF KISSIMMEE, a municipal corporation of the State of Florida (the “**Subordinate Lender**”) (which term as used in every instance shall include Subordinate Lender’s successors and assigns), and (iii) PINNACLE AT THE WESLEYAN, LLC, a Florida limited liability company (“**Borrower**”).

RECITALS

A. Senior Lender has made a loan to Borrower in the original principal amount of FOUR MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$4,500,000.00) (the “**County Loan**”). The County Loan has been secured by a Fourth Mortgage (the “**County Security Instrument**”) on the Property. The Borrower’s obligation to repay the County Loan is evidenced by a Promissory Note, dated November _____, 2023 (the “**County Note**”), and is due in full on November ____, 2073.

B. The Borrower has requested that Senior Lender permit the Subordinate Lender to make a subordinate loan of funds to Borrower, in the principal amount of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) (the “**Subordinate Loan**”), and secure the Subordinate Loan by placing a separate mortgage lien against the Property.

C. The Senior Lender has agreed to permit the Subordinate Lender to make the Subordinate Loan and to place a separate subordinate mortgage lien against the Property subject to all of the conditions contained in this Agreement.

NOW, THEREFORE, in order to induce the Senior Lender to permit the Subordinate Lender to make the Subordinate Loan to the Borrower and to place a subordinate mortgage lien

against the Property, and in consideration thereof, the Senior Lender, the Subordinate Lender and the Borrower agree as follows:

1. Definitions.

In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

“Affiliate” means, when used with respect to a Person, any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual controlled by, under common control with, or which controls such Person (the term **“control”** for these purposes shall mean the ability, whether by the ownership of shares or other equity interests, by contract or otherwise, to elect a majority of the directors of a corporation, to make management decisions on behalf of, or independently to select the managing partner of, a partnership, or otherwise to have the power independently to remove and then select a majority of those individuals exercising managerial authority over an entity, and control shall be conclusively presumed in the case of the ownership of 50% or more of the equity interests).

“Borrower” means the Person named as such in the first paragraph of this Agreement and any other Person (other than the Senior Lender) who acquires title to the Property after the date of this Agreement.

“Business Day” means any day other than Saturday, Sunday, legal holiday or a day on which the Senior Lender is not open for business.

“Default Notice” means: (a) a copy of the written notice from the Senior Lender to the Borrower stating that a Senior Loan Default has occurred under the Senior Loan; or (b) a copy of the written notice from the Subordinate Lender to the Borrower stating that a Subordinate Loan Default has occurred under either of the loans comprising the Subordinate Loan. Each Default Notice shall specify the default upon which such Default Notice is based.

“Person” means an individual, estate, trust, partnership, corporation, limited liability company, limited liability partnership, governmental department or agency or any other entity which has the legal capacity to own property.

“Senior Lender” means the Person named as such in the first paragraph on page 1 of this Agreement and any other Person who becomes the legal holder of the Senior Note after the date of this Agreement.

“Senior Loan Default” means the occurrence of an “Event of Default” as that term is defined in the Senior Loan Documents.

“Senior Loan Documents” means the County Note, the County Security Instrument and all other documents evidencing, securing or otherwise executed and delivered in connection with the County Loan.

“Subordinate Lender” means the Person named as such in the first paragraph on page 1 of this Agreement and any other Person who becomes the legal holder of the Subordinate Note after the date of this Agreement.

“Subordinate Loan Agreement” means that certain [Loan Agreement] by and between the Borrower and the Subordinate Lender governing the loaning of the proceeds of the Subordinate Loan to the Borrower.

“Subordinate Loan Default” means a default by the Borrower in performing or observing any of the terms, covenants or conditions in the Subordinate Loan Documents to be performed or observed by it, which continues beyond any applicable period provided in the Subordinate Loan Documents for curing the default.

“Subordinate Loan Documents” means the Subordinate Note, the Subordinate Security Instrument, the Subordinate Loan Agreement, the Subordinate Rental Regulatory Agreement, and all other documents evidencing, securing or otherwise executed and delivered in connection with the Subordinate Loan Agreement.

“Subordinate Note” means the Promissory Note made by the Borrower to the Subordinate Lender, or order, to evidence the Subordinate Loan.

[“Subordinate Rental Regulatory Agreement” means that certain Declaration of Restrictive Covenant and Restrictions in connection with the Subordinate Loan, by the Borrower in favor of the Subordinate Lender pertaining to the operation of the Property.]

“Subordinate Security Instrument” means the Mortgage encumbering the Property as security for the Subordinate Loan, of which the Subordinate Lender will cause to be recorded among the applicable land records.

2. Permission to Place Mortgage Lien Against Property.

The Senior Lender agrees, notwithstanding the prohibition against inferior liens on the Property contained in the Senior Loan Documents and subject to the provisions of this Agreement, to permit the Subordinate Lender to record the Subordinate Security Instrument and other recordable Subordinate Loan Documents against the Property (which are subordinate in all respects to the lien of the Senior Security Instrument, other than as set forth herein) to secure the Borrower’s obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of the Borrower to the Subordinate Lender under and in connection with the Subordinate Loan. Such permission is subject to the condition that each of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 is true and correct on the date of this Agreement, on the date on which the proceeds of the Subordinate Loan are disbursed to the Borrower and thereafter during the term of the Senior Loan Documents or the Subordinate Loan Documents, whichever date occurs first. If any of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 are not true and correct as set forth above, the provisions of the Senior Loan Documents applicable to unpermitted liens on the Property shall apply.

3. Borrower and Subordinate Lender Representations and Warranties.

The Borrower and the Subordinate Lender each makes the following representations and warranties to the Senior Lender:

(a) The Borrower makes the following representations and warranties to the Senior Lender:

(1) **Subordinate Note.** The Subordinate Note shall contain the following provision (capitalized terms in the following may not be defined in this Agreement):

“The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of all amounts then due and payable (including, but not limited to, all amounts due and payable by virtue of any default or acceleration or upon maturity) with respect to the indebtedness evidenced by the Promissory Note dated as of even date herewith, in the original principal amount of \$4,500,000.00 executed by Maker and payable to Osceola County, Florida, a political subdivision of the State of Florida (the “Senior Lender”), to the extent and in the manner provided in that certain Subordination Agreement dated as of even date herewith, between the Holder of this Note, the Senior Lender and the Maker (the “Subordination Agreement”). The rights and remedies of the payee and each subsequent holder of this Note shall be deemed, by virtue of such holder’s acquisition of this Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the “Subordinate Lender” under the Subordination Agreement.”

(2) **Relationship of Borrower to Subordinate Lender and Senior Lender.** The Subordinate Lender is not an Affiliate of the Borrower and Borrower is not in possession of any facts which would lead it to believe that the Senior Lender is an Affiliate of the Borrower.

(3) **Subordinate Loan Term.** The term of the Subordinate Note does not end before the term of the Senior Note.

(4) **Subordinate Loan Documents.** The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Documents, Borrower shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Documents, certified to be true, correct and complete.

(b) The Subordinate Lender makes the following representations and warranties to the Senior Lender:

(1) **Subordinate Note.** The Subordinate Note shall contain the following provision (capitalized terms in the following may not be defined in this Agreement):

“The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of all amounts then due and payable (including, but not limited to, all amounts due and payable by virtue of any default or acceleration or upon maturity) with respect to the indebtedness evidenced by the Promissory Note dated as of even date herewith, in the original principal amount of \$4,500,000.00 executed by Maker and payable to Osceola County, Florida, a political subdivision of the State of Florida (the “Senior Lender”), to the extent and in the manner provided in that certain Subordination Agreement dated as of even date herewith, between the Holder of this Note, the Senior Lender and the Maker (the “Subordination Agreement”). The rights and remedies of the payee and each subsequent holder of this Note shall be deemed, by virtue of such holder’s acquisition of this Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the “Subordinate Lender” under the Subordination Agreement.”

(2) **Subordinate Loan Term.** The term of the Subordinate Note does not end before the term of the Senior Note.

(3) **Subordinate Loan Documents.** The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement.

4. Terms of Subordination.

(a) **Agreement to Subordinate.** The Senior Lender and the Subordinate Lender agree that: (i) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement to the prior payment in full of the indebtedness evidenced by the Senior Loan Documents, and (ii) the Subordinate Security Instrument and the other Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Security Instrument and the Senior Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the Senior Security Instrument and the other Senior Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the Senior Security Instrument, curing defaults by the Borrower under the Senior Loan Documents or for any other purpose expressly permitted by the Senior Security Instrument, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Property).

(b) **Subordination of Subrogation Rights.** The Subordinate Lender agrees that if, by reason of the advance payment by Subordinate Lender of real estate taxes, casualty insurance premiums or other monetary obligations of the Borrower to protect the Property, the Subordinate Lender, by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, acquires by right of subrogation or otherwise a lien on the Property which would (but for this subsection) be senior to the lien of the Senior Security Instrument, then, in that event, such lien shall be subject and subordinate to the lien of the Senior Security Instrument, only to the extent

of the amount advanced, provided that Subordinate Lender gives Senior Lender prior written notice of its intent to advance sums for real property taxes and/or casualty insurance.

(c) Payments Before Senior Loan Default. Until the Subordinate Lender receives a Default Notice of a Senior Loan Default from the Senior Lender, the Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents.

(d) Payments After Senior Loan Default. The Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a Senior Loan Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Security Instrument) without the Senior Lender's prior written consent excluding, however, such sums which were due and owing and received by the Subordinate Lender prior to receipt of said notice or the time it otherwise acquires knowledge of the Senior Loan Default. The Subordinate Lender agrees that, after it receives a Default Notice from the Senior Lender with written instructions directing the Subordinate Lender not to accept payments from the Borrower on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Security Instrument) without the Senior Lender's prior written consent. If the Subordinate Lender receives written notice from the Senior Lender that the Senior Loan Default which gave rise to the Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by the Senior Lender, the restrictions on payment to the Subordinate Lender in this Section 4 shall terminate, and the Senior Lender shall have no right to any subsequent payments made to the Subordinate Lender by the Borrower prior to the Subordinate Lender's receipt of a new Default Notice from the Senior Lender in accordance with the provisions of this Section 4(d).

(e) Remitting Subordinate Loan Payments to Senior Lender. If, after the Subordinate Lender receives a Default Notice from the Senior Lender in accordance with subsection (d) above, the Subordinate Lender receives any payments under the Subordinate Loan Documents, the Subordinate Lender agrees that such payment or other distribution will be received and held in trust for the Senior Lender and unless the Senior Lender otherwise notifies the Subordinate Lender in writing, will be promptly remitted, in kind to the Senior Lender, properly endorsed to the Senior Lender, to be applied to the principal of, interest on and other amounts due under the Senior Loan Documents in accordance with the provisions of the Senior Loan Documents. By executing this Agreement, the Borrower specifically authorizes the Subordinate Lender to endorse and remit any such payments to the Senior Lender, and specifically waives any and all rights to have such payments returned to the Borrower or credited against the applicable Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by the Subordinate Lender, and remitted to the Senior Lender under this Section 4(e), shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to the Senior Lender waive any Subordinate Loan Default which may arise from the inability of the Subordinate Lender to retain such payment or apply such payment to the applicable Subordinate Loan.

(f) Agreement Not to Commence Bankruptcy Proceeding. The Subordinate Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing any bankruptcy reorganization, arrangement, insolvency or liquidation proceedings with respect to the Borrower, without the Senior Lender's prior written consent.

5. Default Under Subordinate Loan Documents.

(a) Notice of Default and Cure Rights. The Subordinate Lender shall deliver to the Senior Lender a Default Notice within five (5) Business Days in each case where the Subordinate Lender has given a Default Notice to the Borrower. Failure of the Subordinate Lender to send a Default Notice to the Senior Lender shall not prevent the exercise of the Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. The Senior Lender shall have the right, but not the obligation, to initiate a cure of the Subordinate Loan Default within 60 days following the date of such notice; provided, however, the Subordinate Lender shall be entitled to continue to pursue its rights and remedies under the Subordinate Loan Documents until such time as it receives notice that the Senior Lender has initiated a cure of the Subordinate Loan Default. Borrower agrees that any and all amounts paid by the Senior Lender in accordance with the Senior Loan Documents to cure a Subordinate Loan Default shall be deemed to have been advanced by the Senior Lender pursuant to, and shall be secured by the Senior Loan Documents.

(b) Subordinate Lender's Exercise of Remedies After Notice to Senior Lender. If a Subordinate Loan Default occurs and is continuing, the Subordinate Lender agrees that, without the Senior Lender's prior written consent, it will not commence foreclosure proceedings with respect to the Property under the Subordinate Loan Documents or exercise any other rights or remedies it may have under the Subordinate Loan Documents, including, but not limited to accelerating the Subordinate Loan, collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder unless and until it has given the Senior Lender at least 60 days' prior written notice; during such 60-day period, however, the Subordinate Lender shall be entitled to exercise and enforce all other rights and remedies available to the Subordinate Lender under the Subordinate Loan Documents and/or under applicable laws until such time as the Subordinate Lender receives notice that the Senior Lender has initiated a cure of the Subordinate Load Default. Notwithstanding anything to the contrary in this Section 5(b), during such 60 day period, Subordinate Lender shall be entitled to exercise its rights to enforce covenants and agreements of the Borrower relating to income, rent or affordability restrictions until such time as the Subordinate Lender receives notice that the Senior Lender has initiated a cure of the Subordinate Load Default.

(c) Cross Default. The Borrower and the Subordinate Lender agree that a Subordinate Loan Default shall constitute a Senior Loan Default under the Senior Loan Documents and the Senior Lender shall have the right to exercise all rights or remedies under the Senior Loan Documents in the same manner as in the case of any other Senior Loan Default. If the Subordinate Lender notifies the Senior Lender in writing that any Subordinate Loan Default of which the Senior Lender has received a Default Notice has been cured or waived, as determined by the Subordinate Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the

Property pursuant to its rights under the Senior Loan Documents, any Senior Loan Default under the Senior Loan Documents arising solely from such Subordinate Loan Default shall be deemed cured, and the Senior Loan shall be reinstated; provided, however, the Senior Lender shall not be required to return or otherwise credit, for the benefit of the Borrower, any default related interest or other default related charges or payments received by the Senior Lender during such Senior Loan Default.

6. Default Under Senior Loan Documents.

(a) Notice of Default and Cure Rights. The Senior Lender shall deliver to the Subordinate Lender a Default Notice within fifteen (15) Business Days in each case where the Senior Lender has given a Default Notice to the Borrower. Failure of the Senior Lender to send a Default Notice to the Subordinate Lender shall not prevent the exercise of the Senior Lender's rights and remedies under the Senior Loan Documents, subject to the provisions of this Agreement. The Subordinate Lender shall have the right, but not the obligation, to cure any such Senior Loan Default within 60 days following the date of such notice; provided, however, that the Senior Lender shall be entitled during such 60-day period to continue to pursue its remedies under the Senior Loan Documents. Subordinate Lender may have up to 90 days from the date of the Default Notice to cure a non-monetary default if during such 90-day period Subordinate Lender keeps current all payments required by the Senior Loan Documents. In the event that such a non-monetary default creates an unacceptable level of risk relative to the Property, or Senior Lender's secured position relative to the Property, as determined by Senior Lender in its sole discretion, then Senior Lender may exercise during such 90-day period all available rights and remedies to protect and preserve the Property and the rents, revenues and other proceeds from the Property. All amounts paid by the Subordinate Lender to the Senior Lender to cure a Senior Loan Default shall be deemed to have been advanced by the Subordinate Lender pursuant to, and shall be secured by the lien of, the applicable Subordinate Security Instrument.

(b) Cross Default. The Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a Senior Loan Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents until either (i) the Senior Lender has accelerated the maturity of the Senior Loan, or (ii) the Senior Lender has taken affirmative action to exercise its rights under the Senior Security Instrument to collect rent, to appoint (or seek the appointment of) a receiver or to foreclose on (or to exercise a power of sale contained in) the Senior Security Instrument. At any time after a Senior Loan Default is determined to constitute a default under the Subordinate Loan Documents, the Subordinate Lender shall be permitted to pursue its remedies for default under the Subordinate Loan Documents, subject to the restrictions and limitations of this Agreement. If at any time the Borrower cures any Senior Loan Default to the satisfaction of the Senior Lender, as evidenced by written notice from the Senior Lender to the Subordinate Lender, any default under the Subordinate Loan Documents arising from such Senior Loan Default shall be deemed cured and the applicable Subordinate Loan shall be retroactively reinstated as if such Senior Loan Default had never occurred.

7. Rights and Obligations of the Subordinate Lender Under the Subordinate Loan Documents and of the Senior Lender under the Senior Loan Documents.

Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Loan Documents covering the same subject matter:

(a) Protection of Security Interest. The Subordinate Lender shall not, without the prior written consent of the Senior Lender in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Subordinate Loan Documents, except that the Subordinate Lender shall have the right, after ten (10) business days' notice to Senior Lender, to advance funds to cure Senior Loan Defaults pursuant to Section 6(a) above and advance funds pursuant to the Subordinate Security Instrument for the purpose of paying real estate taxes and insurance premiums, making necessary repairs to the Property and curing other defaults by the Borrower under the Subordinate Loan Documents.

(b) Condemnation or Casualty. In the event of a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Property (collectively, a "Taking"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Property (collectively, a "Casualty"), at any time or times when the Senior Security Instrument remains a lien on the Property the following provisions shall apply:

(1) The Subordinate Lender, in its sole capacity as lender, hereby agrees that its rights (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to the Senior Lender's rights under the Senior Loan Documents with respect thereto, and the Subordinate Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by the Senior Lender; provided, however, this subsection and/or anything contained in this Agreement shall not limit the rights of the Subordinate Lender to file any pleadings, documents, claims or notices with the appropriate court with jurisdiction over the proposed Taking and/or Casualty; and

(2) All proceeds received or to be received on account of a Taking or a Casualty, or both, shall be applied (either to payment of the costs and expenses of repair and restoration or to payment of the Senior Loan) in the manner set forth in the Senior Security Instrument; provided, however, that if the Senior Lender elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the Senior Loan, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the Senior Loan shall be paid to, and may be applied by, the Subordinate Lender in accordance with the applicable provisions of the Subordinate Loan Documents; provided, however, the Senior Lender agrees to consult with the Subordinate Lender in determining the application of Casualty proceeds; provided further, however, in the event of any disagreement between the Senior Lender and the Subordinate Lender over the application of Casualty proceeds, the decision of the Senior Lender, in its sole discretion, shall prevail.

(c) No Modification of Subordinate Loan Documents. The Borrower and the Subordinate Lender each agrees that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of the Senior Lender in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon the Senior Lender under the Senior Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents or assignment of the Subordinate Lender's interest in the Subordinate Loan without the Senior Lender's consent shall be void ab initio and of no effect whatsoever.

8. Modification or Refinancing of Senior Loan.

In an Event of Default or threatened, imminent default, under the Senior Loan Documents, the Subordinate Lender consents to any agreement or arrangement in which the Senior Lender waives, postpones, extends, reduces or modifies any provisions of the Senior Loan Documents, including any provision requiring the payment of money, without the prior approval of Subordinate Lender. Subordinate Lender further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Loan (including reasonable and necessary costs associated with the closing and/or the refinancing) that has not been previously approved by Subordinate Lender; and that all of the terms and covenants of this Agreement shall inure to the benefit of the holder of any such refinanced debt; and that all references to the Senior Loan, the Senior Note, the Senior Security Instrument, the Senior Loan Documents and Senior Lender shall mean, respectively, the refinance loan, the refinance note, the mortgage securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note.

9. Default by the Subordinate Lender or Senior Lender.

If the Subordinate Lender or Senior Lender defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by it under this Agreement, the other, non-defaulting lender shall have the right to all available legal and equitable relief.

10. Notices.

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which the Senior Lender or the Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be

deemed to have been received two (2) days after mailing in the United States), addressed to the respective parties as follows:

Senior Lender: Osceola County
Attention: County Manager
1 Courthouse Square, Suite 4700
Kissimmee, Florida 34741

Osceola County Human Services
Attention: Human Services Director
1392 East Vine Street
Kissimmee, Florida 34744

Subordinate Lender: City of Kissimmee
101 Church Street
Kissimmee, Florida 34741
Attention: _____

with a copy to: _____

Attention: _____

Borrower: Pinnacle at the Wesleyan, LLC
c/o PC Wesleyan, LLC
Attention: David O. Deutch
9100 South Dadeland, Blvd., Suite 700
Miami, Florida 33156

c/o DDER Wesleyan Manager, LLC
Attention: Deion R. Lowery
2700 Westhall Lane, Suite 200
Maitland, Florida 32751

with a copy to: Shutts & Bowen LLP
200 S. Biscayne Blvd.
Suite 4100
Miami, Florida 33131
Attn: Robert Cheng, Esq.

Any party may, by notice given pursuant to this Section, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

11. General.

(a) Assignment/Successors. This Agreement shall be binding upon the Borrower, the Senior Lender and the Subordinate Lender and shall inure to the benefit of the respective legal successors and assigns of the Senior Lender and the Subordinate Lender.

(b) No Partnership or Joint Venture. The Senior Lender's permission for the placement of the Subordinate Loan Documents does not constitute the Senior Lender as a joint venturer or partner of the Subordinate Lender. Neither party hereto shall hold itself out as a partner, agent or Affiliate of the other party hereto.

(c) Senior Lender's and Subordinate Lender's Consent. Wherever the Senior Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Senior Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement. Wherever the Subordinate Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Subordinate Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement.

(d) Subordinate Lender Executes Solely In Capacity As Lender. Subordinate Lender executes this Agreement solely in its capacity as a lender toward the Property. Nothing contained in this Agreement is intended, nor will it be construed, to in any way restrict, limit or govern the rights of Subordinate Lender under circumstances, including but not limited to (i) when acting in its capacity as a sovereign, (ii) when exercising its governmental powers (including police, regulatory and taxing powers), (iii) when exercising its powers to take by eminent domain, or (iv) when acting in its capacity as an enforcement authority with respect to Borrower or the Property to the same extent as if it were not a party to this Agreement.. Therefore, nothing contained herein shall affect Subordinate Lender's ability to lawfully (i) enforce the City of Kissimmee Code of Ordinances, (ii) take property and give just compensation for said taking, (iii) to be compensated if the Property is taken by a sovereign other than the City of Kissimmee, or (iv) exercise any other rights and powers outside its role of Subordinate Lender.

(e) Further Assurances. The Subordinate Lender, the Senior Lender and the Borrower each agree, at the Borrower's expense, to execute and deliver all additional instruments and/or documents reasonably required by any other party to this Agreement in order to evidence that the Subordinate Security Instrument is subordinate to the lien, covenants and conditions of the Senior Security Instrument, or to further evidence the intent of this Agreement.

(f) Amendment. This Agreement shall not be amended except by written instrument signed by all parties hereto.

(g) Governing Law and Venue. This Agreement shall be governed by the laws of the State of Florida. Any dispute arising under, in connection with or related to this Agreement or related to any matter which is the subject of this Agreement shall be subject to the exclusive jurisdiction of the state and/or federal courts in and for Osceola County, Florida.

(h) Severable Provisions. If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

(i) Term. The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the Senior Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which the Subordinate Lender is obligated to remit to the Senior Lender pursuant to Section 4 hereof; (iii) the acquisition by the Senior Lender of title to the Property pursuant to a foreclosure or an assignment in lieu of foreclosure of, or the exercise of a power of sale contained in, the Senior Security Instrument; or (iv) the acquisition by the Subordinate Lender of title to the Property pursuant to a foreclosure or an assignment in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Security Instrument, but only if such acquisition of title does not violate any of the terms of this Agreement.

(j) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

**COUNTERPART SIGNATURE PAGE TO
SUBORDINATION AGREEMENT**

(Pinnacle at the Wesleyan)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

SENIOR LENDER:

**BOARD OF COUNTY COMMISSIONERS
OSCEOLA COUNTY, FLORIDA**

By: _____
Don Fisher
County Manager

As authorized for execution at the Board of
County Commissioners meeting of:

November __, 2023

STATE OF FLORIDA)
) SS:
COUNTY OF OSCEOLA)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____ 2023, by _____ as _____, respectively, of Osceola County.

GIVEN under my hand and notarial seal this ____ day of _____ 2023.

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Notary Public, Print, Stamp or Type as Commissioned)

____ Personally known to me, or

____ Produced identification:

(Type of Identification Produced)

**COUNTERPART SIGNATURE PAGE TO
SUBORDINATION AGREEMENT**

(Pinnacle at the Wesleyan)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

SUBORDINATE LENDER:

[SEAL]

CITY OF KISSIMMEE

By:

ATTEST:

Approved as to form and legal sufficiency

By: _____

By: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2023, by _____, as _____ of the City of Kissimmee, a municipal corporation of the State of Florida, on behalf of said municipal corporation. Said person (*check one*) ☐ is personally known to me or ☐ has produced a valid driver's license as identification.

[Notary Seal]

Signature of person taking acknowledgment
Name (typed, printed or stamped): _____
Title or Rank: _____
Serial number (if any): _____

My Commission
No.: _____

My Commission
No.: _____

**COUNTERPART SIGNATURE PAGE TO
SUBORDINATION AGREEMENT**

(Pinnacle at the Wesleyan)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

BORROWER:

PINNACLE AT THE WESLEYAN, LLC, a Florida
limited liability company

By: PC Wesleyan, LLC, a Florida limited
liability company, its Authorized Member

By: _____
David O. Deutch, President

Address: 9100 South Dadeland Boulevard, Suite 700
Miami, Florida 33156

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2023, by David O. Deutch, as President of PC Wesleyan, LLC, a Florida limited liability company, the Authorized Member of Pinnacle at the Wesleyan, LLC, a Florida limited liability company, behalf of the companies. Said person (check one) ☐ is personally known to me or ☐ has produced a valid driver's license as identification.

[Notary Seal]

Signature of person taking acknowledgment
Name (typed, printed or stamped):

Title or Rank:

Serial number (if any):

EXHIBIT "A"

LEGAL DESCRIPTION

(Pinnacle at the Wesleyan)

Lot 3, SHINGLE CREEK PLAZA, according to the Plat thereof, recorded in Plat Book 7, page 2, of the Public Records of Osceola County, Florida.

ITEM 7.T

Temporary Construction Easement Agreement Between the City of Kissimmee and Park Square MF, LLC

Request

Staff requests approval of a new Temporary Construction Easement Agreement between the City and Park Square MF, LLC, a Florida limited liability company, and joined by Kissimmee/Osceola County Chamber of Commerce, Inc., a Florida not-for-profit corporation.

Explanation

The City owns certain real property located at 1425 E Vine Street, while Park Square MF, LLC, is currently developing the adjacent property known as Aston Square (DRC# 18-00145), which includes retail, commercial, and residential uses. As part of this development, Park Square needs to construct, install, and relocate specific sanitary sewer improvements, such as a sanitary sewer line stub-out and a force main, across a portion of the City's property, that will be jointly used by all parties. This easement is requested to construct the above improvements. The Agreement outlines the rights and obligations of the Parties regarding these sanitary sewer improvements and the granting of the easement. Additionally, the Chamber of Commerce, as a lessee, has consented to the terms while holding a leasehold interest in the City's property. The parties to this Easement Agreement, in addition to the Toho Water Authority, who will assume ownership and maintenance of the lift station once it is completed, have tentatively agreed to a Perpetual Sanitary Sewer Easement Agreement which, once fully executed, will extinguish this Temporary Construction Agreement.

Recommendation

Staff recommends City Commission approval of the new Temporary Construction Easement Agreement between the City, Park Square MF, LLC, for the Aston Square Development, and Kissimmee/Osceola County Chamber of Commerce, Inc.

REQUESTED CITY COMMISSION ACTION:

Approve

Department: City Attorney

Presenter:

Attachment(s):

1. (S) Temp Construction Easement Agreement (Ashton Square) Partially Executed
2. 11.1.2023 Ashton Square Vicinity Map

This instrument prepared by and
after recording return to:

Matthew W. McMurtrey, Esq.
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
215 N. Eola Ave
Orlando, FL 32801

-----{SPACE ABOVE THIS LINE FOR RECORDING DATA}-----

TEMPORARY CONRUCTION EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT (“**Agreement**”) is made and entered into as of _____, 2023 (“**Effective Date**”), by and between the **CITY OF KISSIMMEE**, Florida, a municipal corporation, whose address is 101 Church Street, Kissimmee, FL 34741 (the “**City**”), and **PARK SQUARE MF, LLC**, a Florida limited liability company, whose address is 5200 Vineland Road, Suite 200, Orlando, FL 32811 (“**Park Square**”)(Park Square and the City are sometimes hereinafter referred to individually as a “**Party**” and collectively as the “**Parties**”), and joined by **KISSIMMEE/OSCEOLA COUNTY CHAMBER OF COMMERCE, INC.**, a Florida not-for-profit corporation, whose address is 1425 E. Vine Street, Kissimmee, FL 34744 (“**Lessee**”).

RECITALS

WHEREAS, the City owns certain real property located in Osceola County, Florida, as more particularly described on **Exhibit “A”** attached hereto (the “**City Property**”); and

WHEREAS, Park Square owns certain real property situated adjacent to the City Property, as more particularly described on **Exhibit “B”** attached hereto (the “**Park Square Property**,” and collectively with the City Property, the “**Properties**”); and

WHEREAS, Park Square intends to develop the Park Square Property as a mixed-use development potentially containing retail, commercial and residential uses (“**Project**”); and

WHEREAS, in connection with the development of the Project, Park Square desires to construct, install and relocate certain Sanitary Sewer Improvements (as defined herein), including, but not limited to a sanitary sewer line stub-out, a sanitary sewer force main and other associated improvements over a portion of the City Property, which Sanitary Sewer Improvements shall serve both of the Properties; and

WHEREAS, the Parties desire to enter into this Agreement for the purposes of establishing the rights and obligations of the Parties related to the sharing of the Sanitary Sewer Improvements and the granting of perpetual easements in connection therewith; and

WHEREAS, Lessee holds a leasehold interest in the City Property by virtue of that certain Lease Agreement dated November 7, 1989 and recorded January 19, 1990 in Book 953, Page 997, and recorded September 20, 2005 in Book 2901, Page 2795, all in the Public Records of Osceola

County, Florida (the “**Lease**”), and in such capacity has been requested to join in and consent to the terms hereof and agree to be bound thereby so long as it holds a leasehold interest in the City Property.

NOW, THEREFORE, for and in exchange of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Park Square do hereby agree and state as follows:

AGREEMENT

1. **Recitals.** The foregoing recitals are incorporated herein by reference as though fully set forth below.

2. **Lift Station.**

(a) **Grant of Easement.** The City hereby grants, creates, conveys and establishes a temporary, non-exclusive construction easement (the “**Easement**”), on, over, across, under and through that portion of the City Property more particularly described on **Exhibit “C”** attached hereto (the “**Easement Area**”), to and in favor of Park Square, for the use and benefit of Park Square and its successors, assigns, agents, invitees and licensees for purposes of the: (i) the construction, installation and connection of a 6” force main within the Sanitary Easement Area (the “**Force Main**”), and (ii) the construction and installation of one (1) sanitary sewer line stub-out situated in such a way as to allow for the connection of the City Property to the Force Main (the “**Stub-out**,” collectively with the Force Main, the “**Sanitary Sewer Improvements**”).

(b) **Construction, Maintenance and Restoration.** The Sanitary Sewer Improvements shall be constructed, installed and relocated, as applicable, by Park Square at its sole cost and expense, lien-free, in a good and workmanlike manner and in accordance with all applicable governmental requirements and the terms of this Agreement. Should the City or its Lessee wish to connect to the Stub-out, either of them may do so, at no expense to Park Square. After completion of the installation of the Sanitary Sewer Improvements, (i) each Party shall be responsible for the operation, maintenance, repair and replacement of the Sanitary Sewer Improvements situated on that portion of the Properties which it owns, and (ii) Park Square shall restore such portion of the Easement Area substantially to its pre-existing state and condition.

3. **Termination.** Upon completion of construction of the Sanitary Sewer Improvements, as evidenced by the issuance of a “Certificate of Completion” therefor (or reasonably equivalent approval) by the applicable governing authority, the Easement herein granted shall automatically terminate without the necessity of executing or recording any amendment to this Agreement or other documentary evidence thereof.

4. **Park Square Insurance.** Prior to Park Square or its agents, contractors, subcontractors, agents, suppliers, materialman, consultants, employees, invitees or licensees (the “**Park Square Parties**”) entry onto any portion of the Easement Area located on the City Property, Park Square shall maintain or cause to be maintained, at Park Square’s expense, a policy of commercial general liability insurance, with a combined single limit of not less than \$1,000,000.00

per occurrence and \$2,000,000.00 general aggregate, insuring Park Square and the City, as an additional insured, against injuries or damages to persons or property that may result from or are related to (i) the Park Square Parties' entry upon the City Property, and (ii) any construction, maintenance, repair or other activities conducted by the Park Square Parties thereon, and in such forms and with an insurance company reasonably acceptable to the City. Park Square shall deliver a copy of such insurance policy or certificate evidencing such policy to the City prior to the Park Square Parties' first entry on the City Property.

5. **Park Square Indemnity.** Park Square shall, and hereby agrees to, indemnify save, pay, defend and hold the City harmless from and against and reimburse City for any and all loss, damage, cost and expense, including, without limitation, reasonable attorneys' fees at both trial and all appellate levels (but specifically excluding any punitive, incidental and consequential damages, for which Park Square shall have no liability) asserted against the City, which is occasioned by or results from any construction and relocation activities conducted by Park Square or any of the Park Square Parties upon any portion of the Easement Area existing on the City Property.

6. **Notices.** Any notice pursuant to this Agreement shall be given in writing by (a) personal delivery, (b) reputable overnight delivery service with proof of delivery, or (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested, sent to the intended addressee at the address on file at the Osceola County Property Appraiser's Office for such Party's Property, or to the registered agent of such Party on file at the Florida Secretary of State's Office, or such other address or to the attention of such other person as the addressee shall have designated by written notice sent in accordance herewith. Any notice so given shall be deemed to have been given upon receipt or refusal to accept delivery.

7. **Binding Effect; Enforcement.** This Agreement shall run with the Properties, shall be binding upon the Properties and inure to the benefit of the Properties, the respective owners of such properties and their heirs, grantees, successors and assigns. The easements and rights contained herein may be enforced by Park Square, its successors or assigns through any available means under law.

8. **Applicable Law.** This Agreement shall be construed in accordance with Florida law (exclusive of choice of law rules) and shall not be amended, modified or terminated unless in writing executed by the City and Park Square, or their respective successors and assigns, and recorded in the Public Records of Osceola County, Florida. Venue for any action arising hereunder shall lie exclusively in the state courts of Osceola County, Florida.

9. **No Waiver.** The failure of any Party to exercise any right created hereunder or to insist upon strict compliance with any term, condition, or covenant specified herein shall not constitute a waiver of such right or the right to insist upon strict compliance with any such term, condition or covenant under this Agreement at any future time.

10. **Entire Agreement; Severability.** This Agreement contains the sole and entire agreement between the Parties with respect to the matters set forth herein and no representation, inducement, promise, or agreement, oral or written, between the Parties which is not set forth herein shall be of any force or effect. If any term, covenant, or condition of this Agreement or the

application thereof to any person or circumstance shall to any extent be invalid or unenforceable, such term, covenant or condition or such application shall be deemed severable, and the application of such term, covenant or condition to persons or circumstances other than those as to which it was held invalid or unenforceable, and the remainder of this Agreement, shall not be affected thereby, and the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

11. **Attorneys' Fees.** Should any Party be required or elect to enforce the provisions of this Agreement by legal action, the reasonable attorneys' fees, other professionals' fees and costs incurred, whether or not judicial proceedings are involved, including the attorneys' fees, other professionals' fees and costs incurred on appeal of such judicial proceedings and those incurred in all bankruptcy and probate proceedings, shall be collectible from the breaching Party.

[Signatures on the following pages]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered on the day and year first above written.

Signed, sealed and delivered in the presence of:

“CITY”

THE CITY OF KISSIMMEE, a political subdivision of the State of Florida

Print Name

By: _____
Name: _____
Title: _____

(Seal)

Print Name

Date of Execution: _____, 2023

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2023, by _____, as _____ of **THE CITY OF KISSIMMEE**, a political subdivision of the State of Florida, on behalf of the city. Said person (check one) ☐ is personally known to me or ☐ produced _____ as identification.

Notary Stamp
Print Name: _____
Notary Public, State of Florida
Commission No.: _____
My Commission Expires: _____

Signed, sealed and delivered in the presence of:

Mariana Morell

Mariana Morell

Print Name

Print Name

"PARK SQUARE"

PARK SQUARE MF, LLC,
a Florida limited liability company

By: Vishal Gupta
Name: Vishal Gupta
Title: Manager

Date of Execution: October 31, 2023

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 31 day of October, 2023, by Vishal Gupta, as Manager of **PARK SQUARE MF, LLC**, a Florida limited liability company, on behalf of the company. Said person (check one) ☒ is personally known to me or ☐ produced _____ as identification.



Mariana Morell
Notary Public
State of Florida
Comm# HH111077
Expires 3/29/2025

Mariana Morell
Notary Stamp
Print Name: Mariana Morell
Notary Public, State of Florida
Commission No.: HH 111 077
My Commission Expires: 3/29/2025

JOINDER AND CONSENT OF LESSEE

The undersigned, **KISSIMMEE/OSCEOLA COUNTY CHAMBER OF COMMERCE, INC.**, a Florida not-for-profit corporation ("**Lessee**"), being the owner and holder of the leasehold interest in the City Property by virtue of that certain Lease Agreement dated November 7, 1989, and recorded January 19, 1990 in in Book 953, Page 997, and recorded September 20, 2005 in Book 2091, Page 2795, all in the Public Records of Osceola County, FL, hereby agrees and consents to the terms, covenants, conditions and provisions of the Agreement to which this Joinder and Consent is attached.

Signed in the presence of:

"LESSEE"

Witness

Print Name: _____

KISSIMMEE/OSCEOLA COUNTY CHAMBER OF COMMERCE, INC., a Florida not-for-profit corporation

By: _____

Name: _____

Title: _____

Witness

Print Name: _____

Address: _____

Date of Execution: _____, 2023

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 2023, by _____, as **KISSIMMEE/OSCEOLA COUNTY CHAMBER OF COMMERCE, INC.**, a Florida not-for-profit corporation, on behalf of the corporation. He/she is personally known to me or produced _____ as identification.

[NOTARY SEAL]

Notary Public Signature

EXHIBIT "A"

City Property

From the Intersection of the North Right of Way line of U. S. Highway 441-192 and the East Right of Way Line of Michigan Avenue, run S 88°43'20" E, along said North Right of Way Line, 1509.43 feet, to the Point of Beginning; continue S 88°43'20" E, 200.00 feet; run thence N 01°16'40" E, 400.0 feet; run thence N 88°43'20" W, 200.0 feet; run thence S 01°16'40" W, 400.0 feet, to the Point of Beginning, of Section 14, Township 25 South, Range 29 East, Osceola County, Florida.

EXHIBIT "B"

Park Square Property

Lot 2, Aston Square, according to the plat thereof, as recorded in Plat Book 30, Pages 153 and 154 of the Public Records of Osceola County, Florida

EXHIBIT "C"

Easement Area

SKETCH AND DESCRIPTION

(THIS IS NOT A SURVEY)

20' x 20' OFFSITE UTILITY EASEMENT

THE NEO AT KISSIMMEE
KISSIMMEE, OSCEOLA COUNTY, FLORIDA

LEGAL DESCRIPTION

A PORTION OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 25 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF LOT 2, ASTON SQUARE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGES 153 AND 154 OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA; THENCE RUN N 01°36'06" E ALONG THE EAST LINE OF SAID LOT 2 A DISTANCE OF 35.46 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID EAST LINE N 01°36'06" E A DISTANCE OF 20.00 FEET; THENCE DEPARTING SAID EAST LINE RUN S 88°23'54" E, A DISTANCE OF 20.00 FEET; THENCE RUN S 01°36'06" W, A DISTANCE OF 20.00 FEET; THENCE RUN N 88°23'54" W, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 400 SQUARE FEET MORE OR LESS.

SURVEYOR'S NOTES

- 1) NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- 2) THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD BY THIS FIRM.
- 3) BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF LOT 2, ASTON SQUARE, PLAT BOOK 30, PAGES 153 AND 154, HAVING A BEARING OF S 01°36'06" W PER THE RECORD PLAT.

SEE SHEET 2 FOR SKETCH
07/13/2023
SHEET 1 OF 2

PROJECT: 22075

PREPARED BY:

I CERTIFY THAT THIS MEETS OR EXCEEDS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472, FLORIDA STATUTES.


DAVID M. McDERMOTT
FLORIDA REGISTERED SURVEYOR AND MAPPER CERTIFICATE No. 4779

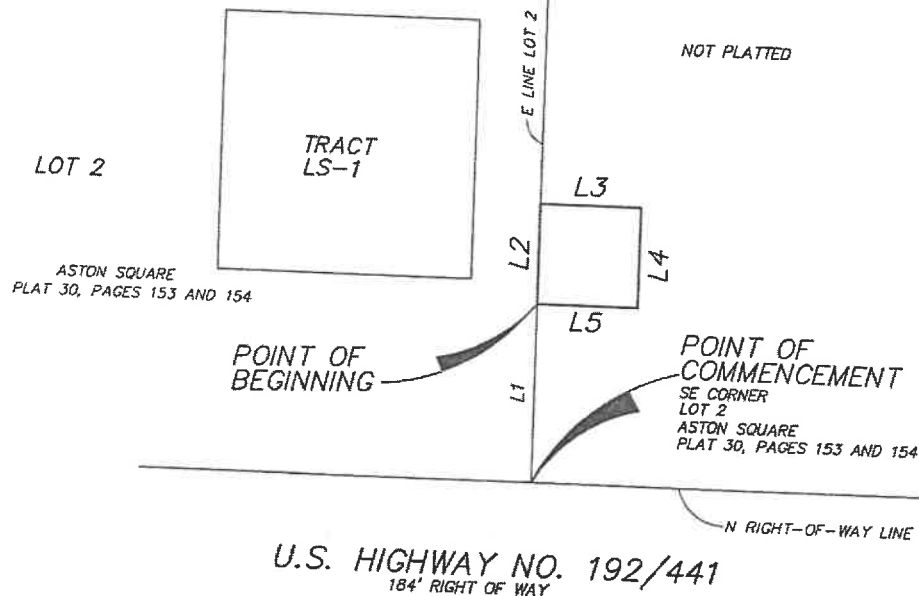
Associated Land Surveying & Mapping, Inc.

1681 POWELL STREET, LONGWOOD, FLORIDA 32750
PH (407) 869-5002, FAX (407) 869-8393
CERTIFICATE OF AUTHORIZATION # LB 5767

SKETCH AND DESCRIPTION
 (THIS IS NOT A SURVEY)
20' x 20' OFFSITE UTILITY EASEMENT
 THE NEO AT KISSIMMEE
 KISSIMMEE, OSCEOLA COUNTY, FLORIDA

1" = 30'

LINE TABLE		
LINE	BEARING	LENGTH
L1	N01°36'06"E	35.46'
L2	N01°36'06"E	20.00'
L3	S88°23'54"E	20.00'
L4	S01°36'06"W	20.00'
L5	N88°23'54"W	20.00'



SEE SHEET 1 FOR DESCRIPTION
 07/13/2023
 SHEET 2 OF 2

PROJECT: 22075

**Associated Land Surveying
 & Mapping, Inc.**

1681 POWELL STREET, LONGWOOD, FLORIDA 32750
 PH (407) 869-5002, FAX (407) 869-8393
 CERTIFICATE OF AUTHORIZATION # LB 6767



ITEM 8.A

Social Services and Quality of Life Grant Funding Allocations for FY 2023-24

Request

Commission discussion and approval of the FY 2023-24 Social Services and Quality of Life Funding Allocations.

Explanation

Each year the Commission approves funding for non-profit agencies instrumental in supporting the mission of the City and furthering the Commission's goals each year. This funding process includes two categories. The Social Services category is designed to support non-profit agencies with direct service programs that reduce the burden on City services by meeting the needs of our most vulnerable residents. For several years, the City Commission has prioritized funding for programs that support the needs of the homeless and families in crisis. The second category is Quality of Life, which provides funding for programs designed to improve the quality of life for residents by supporting the arts, education, and culture.

During the July Budget Workshop, the Commission approved continuing with the averaging method for the initial recommendations. Each Commissioner was provided with a spreadsheet and application packets in order to complete their allocation recommendations. During the meeting, the funding averages of all submissions will be provided for discussion and approval.

The approved FY 2023-24 budget for Social Services is \$300,000 and Quality of Life is \$50,000.

The funding request summary is attached.

Recommendation

Staff requests Commission discussion and direction regarding the approval of the funding allocations for FY 2023-24

REQUESTED CITY COMMISSION ACTION:

Commission Direction

Department: City Manager

Presenter: Desiree Matthews

Attachment(s):

1. Social_Services_Funding_FY_2023-24 PDF
2. Social_Services_Funding_FY_2023-24 QOL PDF

Social Services Grant Program FY 2023-24 (Draft)

AGENCY	Services Funded with City Funds	Clients to be served	Funding Requests FY 2023-24	Approved Funding FY 2022-23	Approved Funding FY 2021-22	No funding year due to Covid relief funding and economic uncertainty FY 2020-21	Approved Funding FY 2019-20
Osceola Council on Aging Program: Health Clinic: \$30,000	Health Clinic: \$15,000 to fund salary of staff physician and \$15,000 for diagnostic testing of uninsured, low income patients Secondary health care to low-income, uninsured, chronically ill residents of Osceola County.	500	\$30,000.00	\$30,000.00	\$26,953.57		\$25,000.00
Program: Meals on Wheels: \$50,000	Meals on Wheels: Food purchases for emergency meal and food distribution programs. Congregant meals; home delivered meals; food bank/pantry.	9,000	\$50,000.00	\$48,750.00	\$42,953.57		\$50,000.00
Program: Transportation: \$20,000	Cover the cost of 1 part time driver and fuel expenses for the Council's transportation program.	250	\$20,000.00	\$18,750.00	\$17,953.57		\$25,000.00
Osceola Mental Health/ Park Place Behavioral Health Care Program: Residence Level IV Adult Substance Abuse Services Services: Transitional living program for adults who are indigent, homeless and have a substance use disorder with or without a co-occurring mental illness.	2-3 beds in the residential level IV program for clients with chemical dependency- includes services and related cost	6 to 9	\$65,000.00	\$52,309.60	\$54,238.41		\$65,000.00
Help Now of Osceola, Inc. Program: Domestic Violence Services Serves the needs of domestic abuse survivors by operating a safe shelter facility, Outreach Center, direct client services, and community advocacy. Funding : Case Management Services at shelter facility and Maintenance expenses at shelter facility.	Shelter operations, case management, communications hotline and facility maintenance	900	\$75,000.00	\$38,796.81	\$39,238.40		\$45,000.00
Aspire Health Partners, Inc. Program: HOME (Helping Others Make the Effort) Bridge Housing for homeless women and children; case manage and referrals for off-site homelessness prevention	Operational cost of providing bridge housing services to the residents of the HOME program. This includes: utilities, staff support, residential housing supplies, building facility maintenance, insurance, and other related operational costs	3,500	\$50,000.00	\$43,046.80	\$36,238.40		\$40,000.00
Community Coordinated Care for Children, Inc. (4C) Program: Head Start/ Early Head Start: Provides early learning programs, childcare assistance and supportive family services.	Head Start Program- Assists low income families with City funding provides match funding (20% non-federal share (NFS) match requirement will leverage \$43,688 in funding).	149	\$10,922.00	\$10,731.82	\$7,927.27		\$6,400.00
Orlando Health/ Howard Phillips Center for Children & Families Program: Healing Tree: Provides therapy/counseling for children and families of children who have been victims of child abuse/ sexual abuse.	Specialized clinical assessments and ongoing therapeutic services provided by licensed mental health therapist and interns for child victims of abuse and their families	30	\$10,000.00	\$10,125.00	\$10,427.27		\$5,000.00
Heavenly Hoofs, Inc/ McCormick Foundation Program: Horses and Heroes Serves post 9/11 Veterans with PTSD through equine-assisted therapy	Services will fund the cost of delivering the program services to veterans; the cost of therapy horses, staff members delivering the services, and contract mental health therapist for the program. (Will serve 40 veterans in four 12-week sessions. (36 hours each)	2	\$6,336.00	\$-.00	\$4,361.67		\$4,500.00
The Opportunity Center (Osceola ARC) Program: Adult Day Training : Provides training to developmentally disabled adults.	Funds will be used to hire a Board Certified Music Therapist to improve the health and emotional well-being of adults with intellectual and developmental disabilities.	110	\$15,000.00	\$6,864.97	\$5,459.87		\$2,900.00
Osceola Community Health Svcs/ Primary Care Medical Svcs of Poinciana Program: Integrated Behavioral Health Program (New): Provides integrated behavioral health services in fixed and mobile locations for the homeless.	Full range of behavioral health services including preventative, diagnostic, episodic, and follow-up care for both on-site and mobile services.	850	\$50,000.00	\$13,750.00	\$13,838.40		\$600.00
City of Kissimmee- Homeless Services	City Homeless Services Funding: Funds will provide a leveraging opportunity to access regional funding for housing the chronically homeless.		TBD	\$26,875.00	\$26,875.00		\$5,600.00
New Requests							
Church and Community Assistance Program CCAP Cares	Program: Homelessness Services, prevention and intervention- Food, personal hygiene kits, emergency housing costs	17,596	\$25,000.00		\$18,038.40		
Destination Life Inc. Program: Life Work Whole Health	Operational expenses for program. Substance abuse counseling, case management, emergency housing, training, medical services, education and life skills, mental health evaluations, literary program.	358	\$300,000.00				
Hope Partnership Inc./ Program: Homeless Prevention and Diversion	Homeless prevention and stability services and provide salary for Part-time Community Support Specialist.	50	\$75,000.00				\$50,000.00
The Transition House, Inc. Inspire Counseling and Support Center	Program: Behavioral health and substance abuse use disorder treatment clinic services for no-income/low-income individuals. (35 individual outpatient services for 12 months)	35	\$125,000.00				
Total			\$907,258.00	\$300,000.00	\$300,000.00		\$275,000.00

Available Budget

\$300,000.00

Quality of Life Grant Program FY 2023-24

Agency Name	Program Specifics	Funding Requests FY 2023-24
Osceola Historical Society	General Operating (Pioneer Village)	\$35,000.00
Regional Homelessness Effort through Central Florida Commission on Homelessness	Board of Governors Member*	\$5,000.00
Education Foundation	Mark E. Durbin Scholarship Commitment	\$5,000.00
Osceola County Literacy Match	City Match- Footsteps to Brilliance	\$9,800.00
Total		\$54,800.00
<u>Available Budget</u>		<u>\$50,000.00</u>