1. Pledge to the Flag and Moment of Silence

2. Additions, Deletions and Modifications to the Agenda

3. Announcements by the Chair

4. Recognitions, Proclamations and Presentations:
   4a) Recognitions: None
   4b) Proclamations: None
   4c) Presentations:
       1) Health Insurance Fund Update (by Sherry Bugnet, Bailey Group)
       2) 800 mHz Radio Update (by Jarrod Shupe, Chief Information Officer)
       3) ERP Software Update (by Jarrod Shupe, Chief Information Officer)
       4) Pedestrian Bridge Update (by Faith Alkhatib, Public Works Director and County Engineer)
       5) Vacant Sheriff Operations Building Update (by Faith Alkhatib, Public Works Director and County Engineer)
       6) Haw Creek Playground Equipment Update (by Heidi Petito, General Services Director)
       7) Captains BBQ Potential Repairs Update (by Heidi Petito, General Services Director)

5. Community Outreach: This thirty-minute time period has been allocated for public comment on any consent agenda item or topic not on the agenda. Each speaker will be allowed up to three (3) minutes to address the Commission. Speakers should approach the podium, identify themselves and direct comments to the Chair.

6. Consent: Constitutional Officers:
   Clerk:
   6a) Bills and Related Reports: Request the Board approve the report(s) of funds withdrawn from County depositories by the Flagler County Clerk of the Circuit Court and the Revenue Collected Report presented in compliance with the provisions of Section 136.06, Florida Statute as listed below:
       1) Disbursement Report for Week Ending May 24, 2019

   6b) Approval of Board Meeting Minutes: Request the Board approve the minutes from the following Meetings:
       1) May 20, 2019 Regular Meeting

7. Consent: BOCC Departments:
   7-a) Ratification of Flagler County Emergency Proclamations Extending the State of Local Emergency – Hurricane Matthew: Request the Board ratify the Proclamations
Extending the State of Local Emergency for Hurricane Matthew.  *(Submitted by Jonathan Lord, Emergency Management Chief)*

7-b) Ratification of Flagler County Emergency Proclamations Extending the State of Local Emergency – Hurricane Irma: Request the Board ratify the Proclamations Extending the State of Local Emergency for Hurricane Irma.  *(Submitted by Jonathan Lord, Emergency Management Chief)*

7-c) CareerSource Flagler/Volusia 2019-2020 Annual Budget and Appointment of Board Members: Request the approval of the CareerSource Flagler/Volusia 2019-2020 Annual Budget and the Appointment of Board Members.  *(Requested by Robin King, CareerSource Flagler/Volusia President & CEO)*

7-d) Appointment to the Northeast Florida Community Action Agency: Request the Board appoint of Ms. Joanne Hinkel, Flagler County Senior Services Program Manager, as Flagler County’s representative to the Northeast Florida Community Action Agency.  *(Requested by Berneitha McNair, NFCAA Executive Director)*

7-e) Renewal of the 2019-2021 Certificate of Public Convenience and Necessity (COPCN) for the City of Palm Coast: Request the Board approve the renewal of the Certificate of Public Convenience and Necessity for the City of Palm Coast COPCN from October 1, 2019 to September 30, 2021.  *(Requested by Don Petito, Fire Chief)*

7-f) Consideration of Distribution of Local Option Gas Tax FY 2019-2020: Request the Board approve the Distribution Table as presented and authorize the County Engineer to forward this information to the Florida Department of Revenue.  *(Requested by Faith Alkhatib, Public Works Director and County Engineer)*

7-g) Consideration of Award for Invitation to Bid 19-B-70EM to Multiple Vendors for Bulk Fuel Services Estimated at $1,500,000.00 Annually: Request the Board approve Bid Award 19-B-70EM to Mansfield Oil Company, Gainesville, Georgia; Petroleum Traders Corporation, Fort Wayne, Indiana; and Gentry Oil, Deland for Bulk Fuel Services Estimated at $1,500,000.00 Annually.  *(Requested by Kris Collora, Purchasing Manager)*

7-h) Adoption of a Flagler County Drone Policy to Govern the Use of Drones by Staff of Flagler County: Request the Board approve the Flagler County Drone Policy.  *(Requested by Jarrod Shupe, Chief Information Officer and Don Petito, Fire Chief)*

7-i) Consideration of the Ratification of Purchase Orders and Approval of 911 Expenditures: Request the Board approve the ratification of Purchase Orders 26701 and 26850 totaling $63,859 and approve Budget Transfer 19-115 for 911 Expenditures  *(Requested by Jarrod Shupe, Chief Information Officer)*

7-j) Consideration of Fiscal Year 2018-19 Budget Transfers from Reserves for the General Fund (001), County Transportation Trust Fund (102), Tourist Development Fund (110), Park Impact Fee Zone 4 (135) Planning and Zoning & Code Enforcement Fund (180), Building Department (181), E-911 Fund (302), Airport Fund (401), Solid Waste Fund (402), and Plantation Bay Utility Fund (407): Request the Board approve Budget Transfer #19-114 and Budget Transfers #19-116 through #19-125 and approve the capital purchase of playground equipment.  *(Requested by Lorie Bailey Brown, Financial Services Director)*

7-k) Consideration of a Resolution to Authorize the Volusia County Housing Finance Authority to issue Multifamily Housing Revenue Bonds in an Amount Not to Exceed $9,000,000 and $22,000,000, in Connection with the Central Landings at Town Center Senior Living Development and Central Landings at Town Center Apartment
Homes Development, Respectively, to be Constructed within the City of Palm Coast: Recommend the Board approve the resolution approving Volusia County Housing Finance Authority request to issue multifamily housing revenue bonds for Central Landings at Town Center Development within the City of Palm Coast, in an amount not to exceed $9,000,000 and $22,000,000. (Requested by Ralston Reodica, Ship Program Manager)

7-l) Consideration of the Florida Department of Transportation (FDOT) Five-Year Work Program Project Priority List for Fiscal Years 2020/2021 through 2024/2025: Request the Board approve the FDOT Five-Year Work Program project priority list for fiscal years 2020/2021 through 2024/2025. (Requested by Faith Alkhatib, Public Works Director and County Engineer)

7-m) Consideration of Project Recommendations and Ranking of the FDOT Transportation Alternative Priorities for Fiscal Years 2020/2021 through 2024/2025: Request the Board approve staff’s recommended FDOT Transportation Alternatives Program submittal for Fiscal Years 2020/2021 through 2024/2025. (Requested by Faith Alkhatib, Public Works Director and County Engineer)

7-n) Approval of Utility Easement Agreements with the City of Palm Coast for Water Main Extension to Airport Commons: Approval by the Board of the Utility Easement Agreements with the City of Palm Coast. (Requested by Adam Mengel, Planning Director)

8. General Business: Presentations limited to 15 minutes with public comments limited to 3 minutes per speaker.

8-a) Time Certain 5:10 p.m. Consideration of Project Partnership Agreement Between the Department of the U.S. Army Corps of Engineers and Flagler County for the Coastal Storm Risk Management Project: Request the Board review the PPA; authorize the Chair to execute the PPA as approved as to form by the County Attorney and approved by the County Administrator; and authorize staff to schedule a signing ceremony meeting of the Board of County Commissioners and Army Corps of Engineers representatives to jointly execute multiple originals of the actual PPA. (Requested by Faith Alkhatib, Public Works Director and County Engineer)

8-b) Ratification of March 4, 2019 Adoption of Ordinance No. 2019-01 Amending the PUD (Planned Unit Development) Development Standards for the Huntington Villas at Hunters Ridge PUD (Application #3163/Project #2018110025): Request the Board of County Commissioners ratify the March 4, 2019 adoption of Ordinance No. 2019-01, the amendment and restating of the PUD Development Agreement for Huntington Villas PUD, adopted through an ordinance. (Requested by Adam Mengel, Planning Director)

8-c) Second Amendment to the Hunter’s Ridge Conservation Park Area Agreement: The Board of County Commissioners may: 1) Approve the Second Amendment to the Conservation Park Area Agreement, with the timeframe for completion of excavation of the borrow pit site extended from one year to five years; or 2) Approve a time extension through the Second Amendment to the Conservation Park Area Agreement for a lesser or greater time period; or 3) Take no action on the Second Amendment (effectively denying the requested time extension), leaving the one year time limit in place. (Requested by Adam Mengel, Planning Director)
9. **Public Hearings:** Public Hearings will be heard after 5:30 p.m.

**Quasi-Judicial Process:** The audience should refrain from clapping, booing or shouts of approval or disagreement. To avoid potential legal ramification and possible overturning of a decision by the Courts, a public hearing must be fair in three respects: form, substance and appearance.

Time limits will be observed:
- **Staff** – 10 minute presentation.
- **Applicant** – 15 minute presentation (unless time extended by consensus of Board).
- **Public Comment** – 3 minutes per speaker, 5 minutes if speaking on behalf of a group.
- **Applicant Rebuttal and Closing Staff Comments** – 10 minutes each.

9-a) **QUASI-JUDICIAL – Proposed Mediation Settlement – Denial of Rezoning from R/C (Residential/Limited Commercial) to PUD (Planned Unit Development) for Beachwalk Planned Unit Development (PUD) located at 4931 North Oceanshore Boulevard; Parcel Number: 40-10-31-5137-000H0-0000; 12.44+/- acres. Owner: LRA Rio, LLC/Applicant: Atlee Development Group, Inc. (Application #3150/Project #2018080036)Beachwalk Mediation:** As this is an informal mediation, the staff request is for the Board to either approve, deny or modify the mediation outcome. The staff will place the Board’s action within the language of Section 70.51, Florida Statutes, depending upon the Board’s determination. If the Board denies the informal mediation, then the matter proceeds to the Special Magistrate as required by the statute. *(Requested by Adam Mengel, Planning Director)*

10. **Additional Reports and Comments:**
   10-a) **County Administrator Report/Comments**
   10-b) **County Attorney Report/Comments**
   10-c) **Commission Action**
   10-d) **Community Outreach:** This thirty-minute time period has been allocated for public comment for items not of the agenda. Each speaker will be allowed up to three (3) minutes to address the Commission. Speakers should approach the podium, identify themselves and direct comments to the Chair.
   10-e) **Commission Reports/Comments**

11. **Adjournment**

Section 286.0105, Florida Statutes states that if a person decides to appeal any decision made by a board agency, or commission with respect to any matter considered at a meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
Health Insurance Update
Benchmark Data

<table>
<thead>
<tr>
<th>Year</th>
<th>Mercer by Group Size (500-999)</th>
<th>Mercer by Industry (Government)</th>
<th>Mercer by Region (South)</th>
<th>Flagler County</th>
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<tbody>
<tr>
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<td>$13,132</td>
<td>$11,441</td>
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<tr>
<td>2016</td>
<td>$13,132</td>
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<tr>
<td>2015</td>
<td>$13,868</td>
<td>$13,383</td>
<td>$11,698</td>
<td>$12,091</td>
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Legend:
- **Mercer by Group Size (500-999)**
- **Mercer by Industry (Government)**
- **Mercer by Region (South)**
- **Flagler County**
<table>
<thead>
<tr>
<th></th>
<th>10/1/15 – 3/31/17</th>
<th>10/1/15 – 3/31/18</th>
<th>10/1/15 – 3/31/19</th>
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</thead>
<tbody>
<tr>
<td><strong>Data Period</strong></td>
<td></td>
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<tr>
<td><strong>Enrolled Members</strong></td>
<td>75</td>
<td>92</td>
<td>115</td>
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<tr>
<td><strong>Issued Prescriptions</strong></td>
<td>328</td>
<td>619</td>
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<tr>
<td><strong>Average US Plan Cost</strong></td>
<td>$254,220</td>
<td>$504,043</td>
<td>$889,670</td>
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<tr>
<td><strong>CanaRx Cost</strong></td>
<td>$67,565</td>
<td>$136,775</td>
<td>$234,562</td>
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<tr>
<td><strong>Net Program Estimated Savings</strong></td>
<td>$186,655</td>
<td>$367,268</td>
<td>$665,108</td>
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<tr>
<td><strong>Percent Savings</strong></td>
<td>73.42%</td>
<td>72.86%</td>
<td>73.63%</td>
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## CanaRx

<table>
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<tr>
<th>Current Savings 1/1/19-3/31/19</th>
<th>Dollar</th>
<th>Percentage</th>
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</thead>
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<td>Employee Savings</td>
<td>$8,930</td>
<td>12.38%</td>
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<tr>
<td>Flagler County Savings</td>
<td>$64,147</td>
<td>88.94%</td>
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<tr>
<td>Total Savings</td>
<td>$73,077</td>
<td>100%</td>
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<tr>
<td><strong>Projected Annual Savings</strong> based on current results</td>
<td><strong>$296,367</strong></td>
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### Health Plan & Health Center Rx Cost Trend

<table>
<thead>
<tr>
<th>Year</th>
<th>CanaRx</th>
<th>Health Center</th>
<th>Health Plan Rx claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>$53,120</td>
<td>$11,869</td>
<td>$1,109,27</td>
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<tr>
<td>2011</td>
<td>$67,967</td>
<td>$29,222</td>
<td>$911,631</td>
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<td>2012</td>
<td>$93,351</td>
<td>$42,927</td>
<td>$913,528</td>
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<td>2013</td>
<td>$67,253</td>
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<td>$983,925</td>
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<tr>
<td>2014</td>
<td>$97,132</td>
<td>$67,253</td>
<td>$944,628</td>
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<td>2015</td>
<td>$102,853</td>
<td>$97,132</td>
<td>$1,246,24</td>
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<tr>
<td>2016</td>
<td>$97,765</td>
<td>$102,853</td>
<td>$1,170,77</td>
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<tr>
<td>2017</td>
<td>$107,236</td>
<td>$97,765</td>
<td>$1,124,77</td>
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<tr>
<td>2018</td>
<td>$93,351</td>
<td>$107,236</td>
<td>$1,416,70</td>
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</tbody>
</table>

- **27% increase in RX costs on the Plan since 2010**
- **5.5% increase per year in overall RX spend**

*Does not account for RX rebates*
Cumulative Net Claims Savings Trend Analysis
per employee per year – total net claims + Health Center costs

Actual Net Claims including the costs of the Employee Health Center has averaged 3.3% over last 8 Plan Years
High Cost Claimants

Number of Members with Claims at Various Thresholds

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of members with claims over $175,000</th>
<th>Number of members with claims over $100,000</th>
<th>Number of members with claims over $50,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>2</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>2016</td>
<td>3</td>
<td>5</td>
<td>14</td>
</tr>
<tr>
<td>2017</td>
<td>0</td>
<td>3</td>
<td>13</td>
</tr>
<tr>
<td>2018 YTD</td>
<td>5</td>
<td>5</td>
<td>8</td>
</tr>
</tbody>
</table>

Legend:
- Orange: Number of members with claims over $175,000
- Red: Number of members with claims over $100,000
- Blue: Number of members with claims over $50,000
<table>
<thead>
<tr>
<th></th>
<th>10/1/17 – 4/30/18</th>
<th>10/1/18 – 4/30/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paid Claims (Med and Rx)</td>
<td>$3,673,378</td>
<td>$6,478,905</td>
</tr>
<tr>
<td>Stop Loss Reimbursement</td>
<td>$-</td>
<td>$(1,042,641)</td>
</tr>
<tr>
<td>Rx Rebates</td>
<td>$(101,130)</td>
<td>$(145,502)</td>
</tr>
<tr>
<td>ASO Fees/COBRA/FSA Fees</td>
<td>$252,647</td>
<td>$271,073</td>
</tr>
<tr>
<td>Stop Loss Fees</td>
<td>$466,952</td>
<td>$509,175</td>
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<tr>
<td>HCR Fees Paid</td>
<td>$466,952</td>
<td>$509,175</td>
</tr>
<tr>
<td><strong>GROSS COSTS TOTAL</strong></td>
<td>$4,291,848</td>
<td>$6,071,010</td>
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<tr>
<td>Employer Funding</td>
<td>$4,259,500</td>
<td>$4,366,250</td>
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<tr>
<td>Employee Contribution</td>
<td>$801,018</td>
<td>$836,150</td>
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<tr>
<td><strong>GROSS FUNDING</strong></td>
<td>$5,060,518</td>
<td>$5,202,400</td>
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<tr>
<td>Current Plan Impact</td>
<td>$768,670</td>
<td>$(868,609)</td>
</tr>
</tbody>
</table>
# 2019-20 Funding Analysis

<table>
<thead>
<tr>
<th></th>
<th>4/1/18-3/31/19</th>
<th>Expected 10/1/19-9/30/20</th>
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</thead>
<tbody>
<tr>
<td><strong>Net Estimated Claims</strong>*</td>
<td>$6,529,624</td>
<td>$7,160,705</td>
</tr>
<tr>
<td><strong>Healthcare Reform Costs</strong></td>
<td>$3,971</td>
<td>$4,199</td>
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<tr>
<td><strong>Administrative Fees</strong></td>
<td>$423,552</td>
<td>$464,957</td>
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<tr>
<td><strong>Stop Loss Premiums</strong></td>
<td>$878,544</td>
<td>$1,010,325</td>
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<tr>
<td><strong>Clinic &amp; CanaRx Costs</strong></td>
<td>$847,906</td>
<td>$912,913</td>
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<tr>
<td><strong>Total Estimated Costs</strong></td>
<td><strong>$8,683,566</strong></td>
<td><strong>$9,553,099</strong></td>
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<tr>
<td><strong>Employee Funding</strong></td>
<td>$1,142,532</td>
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<tr>
<td><strong>Employer Funding</strong></td>
<td>$7,854,000</td>
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</tr>
<tr>
<td><strong>Rx Rebates</strong></td>
<td>$367,943</td>
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<tr>
<td><strong>Total Funding</strong></td>
<td><strong>$9,364,475</strong></td>
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<tr>
<td><strong>Required Funding Increase</strong></td>
<td>2.01%</td>
<td><strong>$188,624</strong></td>
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<tr>
<td><strong>Current Excess Reserves</strong></td>
<td>$2,763,539</td>
<td></td>
</tr>
</tbody>
</table>

The plan has sufficient reserves to cover the required increase and therefore no increase is needed.

*Using a 6% trend (compounded monthly) on claims  **Stop Loss premiums are estimated for 2018-19
Reserve Requirements

- Florida Statutes require that Flagler County self funded medical plan have sufficient reserves to cover 2 months of expenses (medical, prescription, and dental) plus incurred but not reported (IBNR) claims.
- It is important that the plan have enough reserve over the amount required by the state to ensure there are funds to pay in years where expenses exceed the funding as seen in the current plan year or when unexpected expenses come up such as the new Firefighter Cancer bill.
Firefighter Cancer Legislation

• In April, legislation was passed that would make firefighters diagnosed with certain types of cancer automatically eligible to receive disability or death benefits.
• This includes a one-time lump sum payment of $25,000 upon diagnosis of one of the 21 cancers specified in the bill and coverage of any out-of-pocket cancer treatment payments made under the health plan.
• We are currently reviewing processes and procedures to ensure that Flagler County will meet the requirements of this bill.
  – $100,000 of reserves has been earmarked for this bill and additional funding can be pulled if needed.
Recommendation

- Flagler County recommends steady funding for the upcoming plan year.
- No increase to employee contributions.
- No change to plan design.
- Encourage additional utilization of CanaRx and Clinic.
<table>
<thead>
<tr>
<th>Check Date</th>
<th>Check #</th>
<th>Vendor Name</th>
<th>Invoice Number</th>
<th>Net Trans Amt</th>
<th>Description</th>
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<td>13,782.99</td>
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<td>05/22/2019</td>
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<td>FCBCC GROUP BENEFITS FLEX PLAN</td>
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<td>05/22/2019</td>
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*G = Grant supported expenditure; Note: "in-kind" or "match" to grants are not annotated*
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*?* G = Grant supported expenditure; Note: "in-kind" or "match" to grants are not annotated
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**Invoices Processed for week ending 05/24/2019**

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*?* G = Grant supported expenditure; Note: “in-kind” or “match” to grants are not annotated
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"?" G = Grant supported expenditure; Note: "in-kind" or "match" to grants are not annotated
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**Check Date** | **Check #** | **Vendor Name** | **Invoice Number** | **Net Trans Amt** | **Description**
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05/28/2019 | 174758 | FLORIDA POWER & LIGHT COMPANY | 0368849469 0419 | 336.98 | 2200 E MOODY SKATE PARK 04/11/19-05/10/19
 | | | 0388882060 1218 | 15.30 | 160 SAWGRASS RD LS 12/03/18-01/03/19
 | | | 0510729320 0419 | 52.07 | 20 GALE LN LS 04/01/19-05/01/19
 | | | 0572442036 0419 | 24.65 | WP SOCCER LIGHTS SOUTH 04/11/19-05/10/19
 | | | 0700308471 0419 | 733.41 | CATTLEMANS HALL 04/02/19-05/02/19
 | | | 0701528267 0419 | 109.56 | 106 E MOODY BLVD-SAFEHAVEN 04/04/19-05/06/19
 | | | 0793601980 0419 | 1,422.57 | 1001 JUSTICE LN 03/29/19-04/30/19
 | | | 0798606901 0419 | 2,675.59 | 1002 JUSTCE LN-INMATE FAC 03/29/19-04/30/19
 | | | 1048313488 0419 | 139.10 | 160 CYPRESS PT STE C107 04/09/19-05/08/19
 | | | 1084966405 0419 | 17.92 | 106 E MOODY BLVD O/L 04/04/19-05/06/19
 | | | 1139620247 0419 | 1,581.35 | 1769 E MOODY BLVD,BLDG #5 04/04/19-05/06/19
 | | | 1259200911 0419 | 69.07 | MOODY BOAT LAUNCH RESTRMS 04/08/19-05/07/19
 | | | 1344812290 0419 | 22.63 | 25 DEER PARK RD LS 04/01/19-05/01/19
 | | | 1404622290 0419 | 50.46 | 1882 BAY DR LS 04/01/19-05/01/19
 | | | 1438281592 0419 | 164.24 | 3RD FL@AIRPORT CORP CNTER 04/03/19-05/03/19
 | | | 1589802519 0419 | 754.97 | AG EXTENSION 04/02/19-05/02/19
 | | | 1664532296 0419 | 513.18 | 1108 HAMPSTEAD LN LS 04/01/19-05/01/19
 | | | 1725500381 0419 | 46.47 | STREET LIGHT @ BULL CREEK 04/03/19-05/03/19
 | | | 1754747242 0419 | 52.92 | FCSO @ 283 OLD MOODY 04/03/19-05/03/19
 | | | 1844764587 0419 | 171.77 | FCRA FFA RESTROOM LIGHTS 04/02/19-05/02/19
 | | | 2087723538 0419 | 43.37 | 1250 S OLD DIXIE HWY PARK 04/01/19-05/01/19
 | | | 2172850535 0419 | 16.09 | TENNIS COURTS ON A1A 03/28/19-04/29/19
 | | | 221593196 0419 | 12.61 | ESPANOLA RSTRM/BASKETBALL 04/02/19-05/02/19
 | | | 2298508843 0419 | 49.68 | WP TENNIS COURTS 04/11/19-05/10/19
 | | | 2299506879 0419 | 185.79 | WP RACQUETBALL COURT 04/11/19-05/10/19
 | | | 2439456191 0419 | 27.05 | 776 COBBLESTONE WAY LS 04/01/19-05/01/19
 | | | 2479609303 0419 | 42.24 | VETERANS SERVICES 04/04/19-05/06/19

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## Flagler County Board of Commissioners - Disbursement Report Required per F.S. 136.06

**Invoices Processed for week ending 05/24/2019**

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## Flagler County Board of Commissioners - Disbursement Report Required per F.S. 136.06

**Invoices Processed for week ending 05/24/2019**

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Flagler County Board of Commissioners - Disbursement Report Required per F.S. 136.06
Invoices Processed for week ending 05/24/2019

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## Flagler County Board of Commissioners - Disbursement Report Required per F.S. 136.06

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*"?" G = Grant supported expenditure; Note: "in-kind" or "match" to grants are not annotated*
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Flagler County Board of Commissioners - Disbursement Report Required per F.S. 136.06

Date: 05/30/2019

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"?" G = Grant supported expenditure; Note: "in-kind" or "match" to grants are not annotated
Flagler County Board of Commissioners - Disbursement Report Required per F.S. 136.06
Invoices Processed for week ending 05/24/2019

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Present: Chair Donald O’Brien, Vice Chair David Sullivan, Commissioners Charles Ericksen, Gregory Hansen and Joe Mullins, County Administrator Jerry Cameron, County Attorney Al Hadeed and Deputy Clerk Rhea Cosgrove

Chair O’Brien called the meeting to order at 5:00 p.m. in the Board Chambers of the Government Services Building in Bunnell, Florida.

ITEM 1 - PLEDGE TO THE FLAG AND MOMENT OF SILENCE
Chair O’Brien led the Pledge to the Flag and requested a moment of silence.

ITEM 2 - ADDITIONS, DELETIONS AND MODIFICATIONS TO THE AGENDA
None

ITEM 3 – ANNOUNCEMENTS BY THE CHAIR
Chair O’Brien announced the following:

- Memorial Day celebration – May 27 at the Government Services Building
- Government Offices closed for Memorial Day – May 27
- Flagler County soliciting registered voters residing in Flagler County for various citizen volunteer boards and councils
- Upcoming meetings:
  - Regular Meeting – June 3 at 9:00 a.m. in the Board Chambers
  - Budget Workshop – June 3 at 1:00 p.m. in the Board Chambers

ITEM 4A - RECOGNITIONS
None
ITEM 4B1 – PROCLAMATION – DRUG COURT MONTH

The following proclamation was read by Chair O’Brien:

A PROCLAMATION OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS RECOGNIZING THE MONTH OF MAY 2019 AS “DRUG COURT MONTH” IN FLAGLER COUNTY

WHEREAS, drug courts are an effective tool for reducing substance abuse and crime in our criminal justice system; and

WHEREAS, for 30 years, drug courts have been restoring lives, reuniting families and making communities across the nation safe through more than 3,000 courts; and

WHEREAS, drug courts facilitate community-wide partnerships, bringing together public safety and public health professionals in the fight against drug abuse and criminality; and

WHEREAS, research shows that drug courts are demonstratively effective and significantly improve substance-abuse treatment outcomes, substantially reduce drug abuse and crime, and do so at a lower cost than any other justice strategy; and

WHEREAS, Flagler County Adult Drug Court began in 2006 and 168 people have graduated from the program; and

WHEREAS, 78 percent of Flagler County Adult Drug Court graduates had no new felony charges and 87 percent of graduates had no new drug charges; and

WHEREAS, the judges, attorneys, treatment and rehabilitation professionals, court personnel and others dedicated to drug courts and similar types of treatment programs are healing families in the community; and

WHEREAS, the Flagler County Board of County Commissioners recognizes the successful work of the practitioners and participants of drug court programs to reduce the impact of drug abuse in our community.

NOW THEREFORE, BE IT PROCLAIMED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS that they hereby proclaim the month of May 2019 as “Drug Court Month” in Flagler County and urge all citizens to recognize the significant contributions of drug courts and congratulate this year’s drug court graduates.

Shirley Olson, on behalf of Judge Perkins and the Drug Court Team, accepted the proclamation.

A motion was made by Commissioner Ericksen to adopt the proclamation. Seconded by Commissioner Sullivan.

Chair O’Brien called the question. Motion carried unanimously.
ITEM 4B2 – PROCLAMATION – FLAGLER COUNTY OPIOID TASK FORCE IN FLAGLER COUNTY

The following proclamation was read by Commissioner Mullins:

A PROCLAMATION OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS RECOGNIZING THE “FLAGLER COUNTY OPIOID TASK FORCE”

WHEREAS, Flagler County and the State of Florida is in the midst of a public health and safety crisis caused by the opioid epidemic and characterized by an alarming rate of opioid overdose deaths; and

WHEREAS, opioid overdoses have recently claimed the lives of far too many Flagler County residents; and

WHEREAS, the National safety Council reported on January 14, 2019 that for the first time Americans are more likely to die from an accidental opioid overdose than from a motor vehicle crash; and

WHEREAS, opioid overdoses can be prevented and lives can be saved; and

WHEREAS, we recognize that substance use disorder is a disease, that individuals with substance use disorder come from diverse backgrounds and live in every part of our State, and furthermore, that recovery from substance use disorder is possible; and

WHEREAS, the toll that substance use disorder takes on individuals, families, friends, and communities must drive us to do all that we can to reduce its impact and help Flagler County residents lead healthy, successful, and productive lives; and

WHEREAS, we must come together to build on the existing work and successful initiatives of State agencies, stakeholder coalitions, and community partners to contain the opioid epidemic; and

WHEREAS, the purpose of the Task Force is to develop, approve, and implement a comprehensive Opioid Action Plan to: (1) prevent the further spread of the opioid crisis; (2) treat and promote the recovery of individuals with opioid use disorder; and (3) respond effectively to avert opioid overdose deaths.

NOW THEREFORE, BE IT PROCLAIMED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS that they hereby recognize the “Flagler County Opioid Task Force” and encourage all of residents to recognize the importance of their efforts in the lives of Flagler County.

Members of the Opioid Task Force accepted the proclamation.

A motion was made by Commissioner Sullivan to adopt the proclamation. Seconded by Commissioner Mullins.

Chair O’Brien called the question. Motion carried unanimously.
ITEM 4B3 – PROCLAMATION – PICKLEBALL IN FLAGLER COUNTY

The following proclamation was read by Commissioner Sullivan:

A PROCLAMATION OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS RECOGNIZING “PICKLEBALL” IN FLGLER COUNTY

WHEREAS, Pickleball is one of the fastest growing sports with more than 2.5 million participants in the United States; and

WHEREAS, Pickleball is an intergenerational, low impact, competitive sport that is easy to learn, inexpensive to play and promotes camaraderie, teamwork, kindness and enjoyment for individuals and the community as a whole; and

WHEREAS, Pickleball volunteers and enthusiasts share their joy of Pickleball and build community by providing nets, paddles, balls and a gathering in Flagler County to host tournaments and free drop-in clinics; and

WHEREAS, Pickleball ambassadors welcome all generations, from youth to super seniors who may be isolated, to give them a welcoming place to play Pickleball, which helps improve their physical, social, and emotional health; and

WHEREAS, records show that hundreds of people are playing Pickleball on over 30 courts located in Flagler County; and

WHEREAS, the USA Pickleball Association (USAPA) announced that the month of April is once again designated “National Pickleball Month”; and

WHEREAS, the 2019 Hammock Cup Pickleball Tournament was hosted by volunteers at Holland Park in April for the third year, which had 241 competitors who played on 10 courts, with players ranging in age from 17 to 84 years old; and

WHEREAS, Flagler County supports Pickleball and is excited it has encouraged so many residents to live a healthier, active lifestyle.

NOW THEREFORE, BE IT PROCLAIMED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS that they hereby recognize “Pickleball” in Flagler County and encourage all of residents to recognize the health and wellness benefits it provides to Flagler County.

A group of pickleball players in Flagler County accepted the proclamation.

A motion was made by Commissioner Hansen to adopt the proclamation. Seconded by Commissioner Ericksen.

Chair O’Brien called the question. Motion carried unanimously.
ITEM 4C1 – PRESENTATION – PICKLEBALL 2019 CHECK BY WALT HOOKER

Walt Hooker, Pickleball Ambassador for Flagler County, presented a check from the tournament proceeds to the BCC in the amount of $1,056.88.

ITEM 4C2 – HURRICANE SEASON BRIEFING

Jonathan Lord, Emergency Management Chief, gave a presentation (on file in the Clerk’s Office) on the upcoming hurricane season.

ITEM 4C3 – HURRICANE REIMBURSEMENT STATUS UPDATE

Lorie Bailey Brown, Financial Services Director, gave a brief presentation (on file in the Clerk’s Office) on the reimbursements from the hurricanes.

Chair O’Brien suggested the BCC write a letter to their state representatives on the slow reimbursements from hurricane debris cleanup, which was over $1 million.

County Administrator Cameron agreed, stating he would look into and identify the problem then get back to the BCC.

ITEM 5 – COMMUNITY OUTREACH

Rick Belhumeur, Flagler Beach, commented on the recognitions of the workers from the dune restoration project, noting a couple of employees from the Parks Department were not included and suggested recognizing them at a future meeting.

Rick Staly, Sheriff, reminded the BCC that under Florida law the BCC was required to provide adequate space for the Sheriff and thanked them for making the long-term decisions for his space needs. He asked that the BCC either direct the administrator to finish the bank building or sell it and if they sold it, he would be forced to lease space on his own.

Stated his second issue was where to house his main operations, noting he went from 35,000 square feet to 6,000 square feet with the same size workforce and equipment. Stressed his operations had seriously been disrupted. Stated the BCC’s options were to find adequate space in existing County buildings or lease space for his operations.

George Mayo, Palm Coast, asked the BCC to require a mandatory mold assessment before the County purchased any building.

Stated many Flagler County citizens liked to play Pickleball and felt when building new courts they should not all be built in the Hammock.

Pointed out the grass cutting on US 1 was not up to standards and suggested the County look into the problem.
(Item 5 – continued)

Mike Cocchiola, Palm Coast, agreed there was a need for an efficient and modern Sheriff’s facility and faulted the County for buying a “sick” building; it then bought another “sick” building. Pointed out the realtor who sold the old hospital was also who sold the Sears building and the engineer who inspected the first building inspected the second.

Jane Gentile Youd stated Mr. Coffey ordered an inspection on the Sears building to exclude mold and Universal had to sign a separate contract assuring the County it would not do a mold inspection.

Stated she wanted the BCC to look into FDEP’s responsibilities concerning the consent order on the Plantation Bay utility and asked for a building moratorium in Plantation Bay until the wastewater tank was repaired.

Kathryn Robinson, Mayor of the City of Bunnell, thanked the BCC for remembering Bunnell was the county seat and appreciated the County Administrator offering to speak at a city commission meeting.

Ed Fuller stated he wanted to discuss the office space for the Sheriff at the courthouse and was dismayed with the lack of cooperation from the Clerk. Pointed out the BCC owned the building and the Clerk was a tenant as was the Sheriff. Asked the BCC to make a motion to direct the County Administrator to make a space study plan to reallocate space to the Sheriff on the first floor of the courthouse with or without the Clerk’s consent.

Dennis McDonald stated the County Attorney had been directed to go after the responsible parties involved in the Sears building purchase. Asked when the BCC would direct him to go after the responsible parties involved with the sale of the old hospital. Questioned the timeline involved in the purchase of the Sears building.

Gary Perkins, Bunnell, stated he stood behind the Mayor when it came to keeping Bunnell the county seat and looked forward to future growth.
CONSENT AGENDA – ITEMS 6A THROUGH 7J

A motion was made by Commissioner Hansen to approve the consent agenda as presented. Seconded by Commissioner Ericksen.

Chair O’Brien called the question. Motion carried unanimously.

The following items were approved in the above motion:

ITEM 6A – BILLS AND RELATED REPORTS

The report(s) of funds withdrawn from County depositories by the Flagler County Clerk of the Circuit Court presented in compliance with the provisions of Section 136.06, Florida Statute as listed below were approved as part of the Consent Agenda:

- Disbursement Report for Week Ending May 3, 2019 in the amount of $4,806,368.87

ITEM 6B – APPROVAL OF BOARD MEETING MINUTES

The minutes from the following meetings were approved as part of the Consent Agenda:

- May 6, 2019 – Budget Workshop #1
ITEM 7A – RATIFICATION OF EMERGENCY PROCLAMATIONS EXTENDING THE STATE OF LOCAL EMERGENCY – HURRICANE MATTHEW

The emergency proclamations were ratified as part of the Consent Agenda as requested in the following information:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM # 7a

SUBJECT: Ratification of Flagler County Emergency Proclamations Extending the State of Local Emergency – Hurricane Matthew

DATE OF MEETING: May 20, 2019

OVERVIEW/SUMMARY: On October 3, 2016, Governor Scott issued Executive Order No. 16-230 declaring a state of emergency in the State of Florida due to Hurricane Matthew. The following day, on the recommendation of the public safety emergency manager and the county administrator, the Chair issued a Proclamation declaring a state of local emergency. The declared state of emergency allows the County to bypass normal protocols, for example regarding procurement, to the extent necessary to address the emergency. By law, the Proclamation may only last for seven days but may be renewed as needed. Under Section 12-34 of the County Code of Ordinances, actions of the County Administrator pursuant to a declared state of local emergency must be reported to the Board as soon as practical under the circumstances.

Hurricane Matthew struck the County on October 7, 2016 devastating the entire coastline of the County, downing many trees countywide, damaging hundreds of homes and knocking out electricity for the vast majority of residents. As a result, on October 11, 2016 and every seventh day thereafter, the Chair, by Proclamation, extended the state of local emergency for additional seven day periods as the County continues the process of recovery. The damaged dune system and severe erosion of the beach makes public infrastructure and neighborhoods on the barrier island vulnerable to storm and tidal events. The coastline remains in disrepair with damaged dunes and much of A1A in Flagler Beach in need of a long term solution.

The County has completed installation of seawalls in Painters Hill and is conducting a dune restoration project by repairing dune walkovers and installing an emergency berm along much of the coastline. The County has established special assessment districts to recoup some of the costs of the seawall and dune restoration projects. In addition, the County has passed an ordinance recognizing the right of customary use of the beach by the public, including privately owned portions of the beach benefitting from the dune restoration project. Finally, the County has implemented an educational campaign called, “Dodge the Dunes,” to protect the emergency berm and new dune vegetation.

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Jonathan Lord, Emergency Management Director (386) 313-4240

RECOMMENDATION: Request the Board ratify the Proclamations Extending the State of Local Emergency for Hurricane Matthew.

ATTACHMENTS:
1. Proclamation Extending State of Local Emergency – Hurricane Matthew, 05/07/2019
2. Proclamation Extending State of Local Emergency – Hurricane Matthew, 05/14/2019
ITEM 7B – RATIFICATION OF EMERGENCY PROCLAMATIONS EXTENDING THE STATE OF LOCAL EMERGENCY – HURRICANE IRMA

The emergency proclamations were ratified as part of the Consent Agenda as requested in the following information:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM # 7b

SUBJECT: Ratification of Flagler County Emergency Proclamations Extending the State of Local Emergency – Hurricane Irma.

DATE OF MEETING: May 20, 2019

OVERVIEW/SUMMARY: On September 4, 2017, Governor Scott issued Executive Order No. 17-235 declaring a state of emergency in the State of Florida due to Hurricane Irma. The following day, on the recommendation of the Public Safety Emergency Manager and the County Administrator, the Chair issued a Proclamation declaring a state of local emergency. The declared state of emergency allows the County to bypass normal protocols, for example regarding procurement, to the extent necessary to address the emergency. By law, the Proclamation may only last for seven days but may be renewed as needed. Under Section 12-34 of the County Code of Ordinances, actions of the County Administrator pursuant to a declared state of local emergency must be reported to the Board as soon as practical under the circumstances.

Hurricane Irma struck the County on September 11, 2017 flooding and damaging hundreds of homes, knocking out electricity for the vast majority of residents, and damaging an already compromised dune system on the barrier island. As a result, on September 12, 2017 and every seventh day thereafter, the Chair, by Proclamation, extended the state of local emergency for additional seven-day periods as the County continues the process of recovery. The Board has ratified each of the Proclamations at regular meetings.

As part of the recovery, the County has repaired dune crossovers and other public infrastructure along the coastline and installed seawalls in Painters Hill. The County is also conducting a dune restoration project by installing an emergency berm along most of the coastline. The County has established special assessment districts to recoup some of the costs of the seawall and dune restoration projects. The County has passed an ordinance recognizing the right of customary use of the beach by the public, including privately owned portions of the beach benefiting from the dune restoration project. Finally, to protect the berm and new dune vegetation, the County has implemented an educational campaign called, “Dodge the Dunes.”

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Jonathan Lord, Emergency Management Director (386) 313-4240

RECOMMENDATION: Request the Board ratify the Proclamations Extending the State of Local Emergency for Hurricane Irma.

ATTACHMENTS:
1. Proclamation Extending State of Local Emergency – Hurricane Irma, 05/07/2019
2. Proclamation Extending State of Local Emergency – Hurricane Irma, 05/14/2019
ITEM 7C – REQUEST THE BOARD DECLARE ITEMS AS SURPLUS, REMOVAL FROM THE COUNTY FIXED ASSETS AND AUTHORIZE PURCHASING TO DISPOSE OF SURPLUS PROPERTY PURSUANT TO THE FIXED ASSET POLICY

The request was approved as part of the Consent Agenda as requested in the following information:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS  
CONSENT / AGENDA ITEM # 7c

SUBJECT: Request the Board Declare Items as Surplus, Removal from the County Fixed Assets and Authorize Purchasing to Dispose of Surplus Property Pursuant to the Fixed Asset Policy.

DATE OF MEETING: May 20, 2019

OVERVIEW/SUMMARY: Pursuant to the provisions of Chapter 274, Florida Statutes, the Board of County Commissioners must declare items as surplus and authorize the disposal of all tangible personal property, owned by the governmental unit, of a non-consumable nature. The last request to declare items as surplus and authorize disposal of items was approved by the Board on February 18, 2019. The attached document lists all items that staff requests to be declared surplus and/or removed from the County’s fixed asset inventory.

FUNDING INFO: Proceeds generated by the sale of surplus property will be deposited into the fund from which the original purchase was funded.

DEPARTMENT CONTACT: Purchasing, Kris Collora, (386) 313-4062

RECOMMENDATIONS: Request the Board declare items as surplus, removal from the County’s fixed asset inventory and authorize Purchasing to dispose of surplus property pursuant to the Fixed Asset policy.

ATTACHMENTS:
1. Surplus and Disposal List
ITEM 7D – CONSIDERATION OF THE FIRST AMENDMENT TO THE SPACE USE AGREEMENT BETWEEN FLAGLER COUNTY AND AT&T SERVICES, INC. FOR OFFICE/WAREHOUSE SPACE IN A COUNTY FACILITY LOCATED AT 315 OLD MOODY BOULEVARD, FLAGLER EXECUTIVE AIRPORT

The agreement was approved as part of the Consent Agenda as requested in the following information:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM #7d

SUBJECT: Consideration of the First Amendment to the Space Use Agreement between Flagler County and AT&T Services, Inc. for Office/Warehouse Space in a County Facility Located at 315 Old Moody Boulevard, Flagler Executive Airport.

DATE OF MEETING: May 20, 2019

OVERVIEW/SUMMARY: On February 6, 2017, the B OCC entered into a Space Use Agreement with AT&T Services, Inc. for a period of three (3) years, with three (3) additional five (5) year terms. AT&T desires to execute the first additional term and continue leasing the 6,250 sq. ft. of office/warehouse space and a secured parking area located in the Triangle Air Business Park. The office/warehouse space is utilized for operations associated with communication equipment products and services, cable television products and services, satellite products and services, mobile electronic devices and services, home or office automation security products and services. AT&T Services has occupied the space since 2009 and is in good standing.

The First Amendment to the Space Use Agreement with AT&T Services for the Board's consideration and approval is for five (5) years commencing on January 1, 2020 and ending on December 31, 2024. The lease payment will be $6,405.60 per month, with an additional $1,047.40 per month for Common Area Maintenance (CAM). AT&T Services will also pay $2,400 per month for a secured paved area of the premises for parking. The lease payment and CAM will be adjusted annually at a rate of 3%.

Jones Lang LaSalle (JLL) is the exclusive representative for AT&T Services, Inc. in lease negotiations. JLL requested an annual commission of 6% of the monthly lease payment and Common Area Maintenance. The Airport Director negotiated the commission down to 2%. The Flagler Executive Airport will pay JLL a commission of $9,496.55 over the next 5 years. However, during this same time the Airport will receive $18,827.71 in lease payments from AT&T Services.

FUNDING INFORMATION: The revenue for this lease and the commission expense will be included in the FY 2019-20 budget.

DEPARTMENT CONTACT: Airport Director, Roy Sieger (386) 313-4220

RECOMMENDATION: Request the Board approve the First Amendment to the Space Use Agreement and the Jones Lang LaSalle (JLL) Commission Agreement for the County facility located at 315 Old Moody Boulevard, on the Flagler Executive Airport

ATTACHMENTS:
1. Proposed First Amendment to the Space Use Agreement
2. Proposed Jones Lang LaSalle (JLL) Commission Agreement with Exhibit A
ITEM 7E – REQUEST THE BOARD OF COUNTY COMMISSIONERS APPROVE THE ADDITION OF THE HEALTH AND HUMAN SERVICES DIRECTOR POSITION

The request was approved as part of the Consent Agenda as requested in the following information:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS  
CONSENT / AGENDA ITEM # 7e  

SUBJECT: Request the Board of County Commissioners Approve the Addition of the Health and Human Services Director Position.  

DATE OF MEETING: May 20, 2019  

OVERVIEW/SUMMARY: Staff is bringing forward a request to add the position of Health and Human Services Director. This position was previously included in the Community Services Director position which was dissolved on January 31, 2019. The role of Health and Human Services Director is critical in that it provides a span of control and cohesiveness within five divisions; human services, senior services, the adult daycare, SHIP and Veteran Services. Currently, each division operates independently and are in need of a Director to represent the entire department and be actively involved with strategic planning and other decisions affecting social services within the County. It is equally important that County departments and the community have a single point of contact who can make decisions on behalf of all 5 divisions regarding social service needs. This position is classified as a pay grade 521 and has a salary range of $79,144 - $129,126.40. Benefits at current rates would be an additional $23,416 - $31,573.

State of Florida Statute 126.74 (1) (k) states that the County Administrator shall “select, employ, and supervise all non-legal personnel and fill all non-legal vacancies, positions for employment under the jurisdiction of the board. However, the employment of all department heads shall require confirmation by the Board”.

Staff will be providing the application and resume of the applicant for confirmation upon selection.  

FUNDING INFORMATION: Funding for this position for the remainder of FY19, is estimated at $36,228 - $56,345 to include salary and benefits. When the position is filled and brought to the Board for appointment, a budget transfer from Reserves will be included for approval.

DEPT. CONTACT PHONE: Pamela Wu, Human Resources Director (386) 313-4033

RECOMMENDATION: Request the Board approve the position of Health and Human Services Director at a pay grade of 521 increasing the total County FTE’s in the FY19 Budget from 382.77 to 383.77.

ATTACHMENTS:
1. Job Description
ITEM 7F – CONSIDERATION TO INCREASE THE ECONOMIC DEVELOPMENT SPECIALIST POSITION FROM TWELVE HOURS TO TWENTY-FOUR HOURS PER WEEK

The request was approved as part of the Consent Agenda as requested in the following information:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT/AGENDA ITEM # 7f

SUBJECT: Consideration to Increase the Economic Development Specialist Position from Twelve Hours to Twenty-Four Hours per Week.

DATE OF MEETING: May 20, 2019

OVERVIEW/SUMMARY: The Department of Economic Opportunity has been able to maintain a twelve (12) hour-a-week part-time Economic Development Specialist position since August 8, 2017. The role of the Economic Development Specialist has been to provide administrative support to the Department.

Over time, the demands of the position have increased in responsibility, complexity, and workload. It has become apparent that the position requires substantially more than a twelve (12) hour-a-week commitment to do the job. As a result, other department staffing is regularly diverted to address administrative tasks that cannot otherwise be completed. This puts a strain on all department efforts, many of which are time sensitive.

Additionally, it is difficult to retain administrative talent in this position due to the limited number of hours offered.

Responsibilities for the Economic Development Specialist are as follows:
- Communicate with businesses for the purpose of economic data collection.
- Assist staff with phone and written and oral communications, providing timely, engaging interactions with board members, foundation and government representatives, and senior executives in government and the private and non-profit sectors.
- Assist in collection of information about, measuring and analyzing economic conditions, resources, and opportunities for employment and business creation and expansion.
- Perform critical record management duties, and manage the department record retention system, and filing systems, e.g., payroll, accounts payable, departmental files, personnel records.
- Track/Monitor Department’s finance management.
- Assist in maintaining calendars, meeting schedules and provides general staff support.
- Coordinate Department travel and events and prepares documentation relative to those activities.
- Perform related duties as required.

FUNDING INFORMATION: Funding is available in the Department of Economic Opportunity. Additional personal services costs will be reallocated with operating funds available.

DEPARTMENT CONTACT: Helga van Eckert, Executive Director, (386) 313-4071

RECOMMENDATION: Request the Board approve the change of Economic Opportunity's Economic Development Specialist position from twelve (12) hours to twenty-four (24) hours per week increasing the total County FTE's in the FY19 Budget from 382.77 to 384.07.

ATTACHMENTS:
1. Job description
ITEM 7G – APPROVAL OF AN UPDATE TO FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS PERSONNEL POLICIES AND PROCEDURES MANUAL SECTION 1.01 GENERAL POLICY, 1.03 EQUAL EMPLOYMENT OPPORTUNITY

The request was approved as part of the Consent Agenda as requested in the following information:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM # 7g

SUBJECT: Approval of an Update to Flagler County Board of County Commissioners Personnel Policies and Procedures Manual Section 1.01 General Policy, 1.03 Equal Employment Opportunity (Affirmative Action Statement), and Section 2.02 Equal Opportunity and Affirmative Action.

DATE OF MEETING: May 20, 2019

OVERVIEW/SUMMARY: To remain compliant with Federal laws that protect against discrimination in the workplace and for compliance with the CDBG grant executed March 11, 2019, we are requesting approval of revised language to Personnel Policies and Procedures Section 1.01, 1.03 and 2.02. The revised language includes protected classes of pregnancy, gender identity and genetic information. Changes are underlined below:

Section 1.01 General Policy #: “Ensure that all job opportunities are equally available to all applicants regardless of race color, religion, sex (including pregnancy, sexual orientation, and gender identity), marital status, age (40 and older), national origin, genetic information, political affiliation, handicap or disability, except when the handicap or disability is job related and cannot be reasonably accommodated. All references contained herein to gender shall include both male and females and shall not indicate a preference for either gender.”

Section 1.03 Equal Employment Opportunity (Affirmative Action Statement): “It shall be the continuing policy of the Flagler County Board of County Commissioners to afford equality of opportunity for employment to all persons without regard to race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), marital status, age (40 or older), national origin, genetic information, political affiliation, handicap, or disability, except when the handicap or disability is job related and cannot be reasonably accommodated. Persons shall be judged by such factors as their qualifications when seeking employment and in no case shall hiring, training, promotion or advancement opportunities, rates of pay, conditions of employment, performance ratings, discipline or termination be influenced, made or withheld on the basis of the above cited factors. Programs and benefits offered to employees of Flagler County shall also be afforded without regard to the above cited factors except as required or allowed by law.”

Section 2.02 Equal Opportunity and Affirmative Action #: “Flagler County will not discriminate in employment, employee development, or employment advancement because of religious or political opinions or affiliations, race, color, national origin, sex (including pregnancy, sexual orientation, and gender identity), marital status, age (40 or older), genetic information, disability, handicap, or other non-merit factors, except where such factor is a bona fide occupational qualification or is required or is otherwise a permissible consideration by State or Federal law.”

FUNDING INFO: N/A.

DEPARTMENT CONTACT: Pamela Wu, Human Resources Director (386) 313-4033

RECOMMENDATION: Request the Board approve changes to Flagler County BOCC Personnel Policies and Procedures Manual Sections 1.01, 1.03 and 2.02.

ATTACHMENTS: None
ITEM 7H – REVISION OF FLAGLER COUNTY TRAVEL POLICY

The revision was approved as part of the Consent Agenda as requested in the following information:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM # 7h

SUBJECT: Revision of Flagler County Travel Policy.

DATE OF MEETING: May 20, 2019

OVERVIEW/SUMMARY: Staff is seeking revision of the Flagler County Travel Policy. The current policy was approved on April 18, 2016. While the previous version had been devised with thorough research using many county and municipal travel policies as well as Florida Statutes and indices provided from Government Services Administration (GSA), practices have evolved and changes are needed. Purchasing continuously reviews this policy and will request updates periodically to ensure that future issues are taken into consideration.

This revision allows for the following changes:

- Revisions to approval authority
- Addition of Travel by Third Party or Outside Organization other than Flagler County
- Addition of County Issued Fuel Card
- Revision of Combining County Travel with Other Travel
- Addition of Ride-Sharing (i.e. Uber, Lyft) to Miscellaneous Transportation
- Additional verbiage identifying that a County-owned SunPass may only be utilized in County-owned vehicles.
- Scrivener of formatting updates

FUNDING INFORMATION: n/a

DEPARTMENT CONTACT: Kris Collora, Purchasing Manager, (386) 313-4062

RECOMMENDATION: Request the Board approve the revisions to the Flagler County Travel Policy and authorize execution by the Chair.

ATTACHMENTS:
1. Flagler County Travel Policy with Proposed Revisions
ITEM 71 – CONSIDERATION OF AN EASEMENT TO FLORIDA POWER & LIGHT COMPANY FOR UNDERGROUND UTILITIES AT 1250 SOUTH OLD DIXIE HIGHWAY, BUNNELL FL TO SERVE THE PUBLIC SAFETY COMMUNICATIONS PROJECT

The easement was approved as part of the Consent Agenda as requested in the following information:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM # 71

SUBJECT: Consideration of an Easement to Florida Power & Light Company for Underground Utilities at 1250 South Old Dixie Highway, Bunnell, FL to Serve the Public Safety Communications Project.

DATE OF MEETING: May 20, 2019

OVERVIEW/SUMMARY: Staff is seeking approval to grant an easement to Florida Power & Light Company (FP&L) on certain property located within 1250 South Old Dixie Highway, Bunnell, FL related to the Public Safety Communications Project.

The Public Safety Communications Project is currently under construction. The power source currently runs between the transformer behind the Justice Center and the transformer at the chiller plant. This easement will allow FP&L to continue underground power to the new communications tower located in this location. FP&L requires an easement from property owners to provide utility service.

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Innovation Technology, Jarrod Shupe, Chief Information Officer, (386) 315-4281

RECOMMENDATION: Request the Board approve the granting and recording of an easement to Florida Power & Light Company in order to complete the construction, operation and maintenance of underground electric power facilities related to the Public Safety Communications Project.

ATTACHMENTS:
1. Proposed Easement
2. Survey
GENERAL BUSINESS

ITEM 8A – REQUEST FOR FINAL PLAT APPROVAL AND ACCEPTANCE OF A PERFORMANCE BOND FOR LAS CASITAS SUBDIVISION; OWNER KB HOME JACKSONVILLE, LLC

The following staff report was provided by County Administration:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
GENERAL BUSINESS / AGENDA ITEM # 8a

SUBJECT:  Request for Final Plat Approval and Acceptance of a Performance Bond for Las Casitas Subdivision. Owner: KB Home Jacksonville, LLC; Agent: Ken Atlee, Duval Realty Trust, LLC (Application #3169/Project #2019010022).

DATE OF MEETING:  May 20, 2019

OVERVIEW/SUMMARY:  This request is for approval of a final plat and acceptance of a performance bond for a 97 lot subdivision to be known as Las Casitas within the PUD (Planned Unit Development) District. These parcels – 37-10-31-3725-00000-00G0, 37-10-31-1550-00000-0154, and 37-10-31-3725-00000-003A – total 24.6 +/- acres in size and are located on the West side of State Road A1A (a/k/a North Oceanshore Boulevard), formerly part of the Matanzas Shores Development of Regional Impact (DRI).

Property Appraiser aerial photo (2019):
May 20, 2019
Regular Meeting

(Item 8a – continued)

Report in Brief
Ken Atlee with Atlee Development Group, Inc., on behalf of the parcel owner, KB Home Jacksonville, LLC, submitted an application for Final Plat approval for the development of a 97-lot single family residential subdivision on approximately 24.6 acres to be known as Las Casitas. Accompanying the three sheet final plat is the performance bond in the amount of $2,633,931.00, which is 125% of the engineer’s cost estimate of $2,107,144.82; both the final plat and the performance bond are subject to review and approval by the Board of County Commissioners.

The proposed Las Casitas subdivision is located on former Cluster 4 designated through the Matanzas Shores Development of Regional Impact. This Cluster consisted of 20 residential acres with a maximum allowed dwelling unit count of 151 units, identified as a “Shared Estate Development” with a density range of 5-12 units and a cluster density identified as 7.7 units per acre (and an overall density within the DRI of 5.2 units per acre). As proposed, the 97 lots on 24.6 acres corresponds to a density of 3.94 units per acre. The Mixed Use: Low Intensity, Low to Medium Density Future Land Use designation permits a maximum density of 7 units per acre (Policy A.1.1.3(2)(a), Flagler County 2010-2035 Comprehensive Plan). Cluster 4 was additionally identified with a 5 story maximum building height.

The smallest lot is 0.12+/- acres (5,193 s.f.) in size (Lot 78), while the largest is 0.74+/- acres (32,310 s.f.) in size (Lot 49). The majority of lots are approximately 5,500 s.f. in area.

The Board of County Commissioners initially considered the preliminary plat (Application #3080) on November 20, 2017, with the Board continuing the public hearing to the December 18, 2017 meeting, and again continuing the hearing to the January 22, 2018 meeting at which time the Board approved – through a 3-2 vote — the preliminary plat.

DEPARTMENT CONTACT: Planning & Zoning/Adam Mengel/366-313-4065

STAFF FINDINGS: County staff finds that the final plat requirements at Land Development Code Section 4.05.03 have been met and that the final plat is consistent with the Flagler County Comprehensive Plan, the Flagler County Land Development Code, the Las Casitas PUD, the Las Casitas Preliminary Plat, and Chapter 177, Florida Statutes.

OPTIONS FOR THE BOARD: The Board may:

1. APPROVE THE REQUEST - The Board of County Commissioners accepts the Final Plat and Performance Bond in the amount of $2,633,931.00 for Las Casitas (Application #3169).

2. DENY THE REQUEST - The Board of County Commissioners does not accept the Final Plat and Performance Bond for Las Casitas (Application #3169). Identifying needed corrections or modifications for acceptance by the Board.

3. TABLE THE REQUEST – The Board of County Commissioners makes a determination that sufficient factual data has not been presented and tables the request to a time and date certain pending additional information and deliberations by the Board. [This option assumes that additional information is necessary for the Board to make a decision.]
Adam Mengel, Planning and Zoning Director, gave a presentation, noting the final plat had been under review by staff and was consistent with the preliminary plat. Pointed out there were scrivener’s errors on pages 2 and 3 of the Mylar that would be corrected and explained.

Commissioner Hansen stated he received complaints that the lot had been clear-cut and wanted to confirm the County had in the rules a tree replacement program.

Mr. Mengel replied there were two requirements; index tree preservation and replanting, noting the shade tree requirement would apply.

Commissioner Sullivan stated he was concerned about the change in the height above sea level requirements to include the pond. Asked if anything had changed in the discussions with the Army Corps as to how high above sea level they needed to be in order to build.

Mr. Mengel replied there were no changes because of the Army Corps or FEMA. Stated the plan was consistent with both and there were no changes subsequent to the storms as of yet.

Chair O’Brien requested public comments. There was none.

A motion was made by Commissioner Sullivan to approve Item 8a as presented. Seconded by Commissioner Hansen.

Chair O’Brien called the question. Motion carried unanimously.
ITEM 8B – PLANTATION BAY STATUS REPORT

The following staff report was provided by County Administration:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
GENERAL BUSINESS / AGENDA ITEM #8b

SUBJECT: Plantation Bay Status Report

DATE OF MEETING: May 20, 2019

Plantation Bay Background: Plantation Bay Water and Wastewater Plants are located on the south side of Old Dixie Highway, west of Interstate 95, in unincorporated Flagler County near Old Dixie Park. The utility serves the Plantation Bay DRI (Development of Regional Impact) that straddles Flagler and Volusia Counties and several smaller areas adjacent to the development. The development itself contains a total of 3,673 acres (9.74 square miles) of which 2,574 acres (70%) are located within Flagler County. The Plantation Bay DRI was approved in September 1985. In its current iteration, the DRI is approved for a maximum of 5,000 dwelling units and a maximum of 90,000 square feet of commercial that will likely be developed as retail/shopping center and office uses.

Plantation Bay Timeline:

December 10, 1984 – Falcon Development of Flagler County, Inc. filed an application for a Development of Regional Impact for what is now Plantation Bay.

1985 – Ecocene Corporation, Falcon Development of Flagler County, and Marco Polo Association, Inc., signed a state development order, or Development of Regional Impact (DRI), that gave Flagler County the right to acquire the utility at a lower cost than the $5.5 million eventually paid in 2013.

- “The Applicant shall construct at its own financial responsibility the following capital facilities at no cost to the County:
  - a surface water management system
  - major arterial roads
  - internal potable water distribution and fire hydrant system
  - wastewater collection, treatment, and disposal system”

1985 – Plantation Bay utility constructed by Ecocene Corp.


1999 – Florida Governmental Utilities Authority (FGUA) was created by four counties (Brevard, Lee, Polk and Sarasota) to acquire, improve, and operate water and wastewater facilities. The Legislature provided it authority to create utilities for local governments around the state.

2004/2005 – Two failed negotiations by County Administrator David Haas, who now works for ICI Homes, to transfer the utility to Flagler County.

2006/2007 – Two failed negotiation by County Administrator Doug Wright to transfer the utility to Flagler County.

2007 – Utility Settlement Agreement – general to all utilities within Flagler County – stipulated that such systems be environmentally sound and financially feasible that was later incorporated by reference to the 2010-2035 Flagler Comprehensive Plan.
(Item 8b – continued)

2010 – Flagler County Strategic Plan states: “Now, or in the future, support the acquisition of the Plantation Bay Plant by the FGUA (Florida Governmental Utilities Authority) or other governmental entity and appoint a County representative to serve on the FGUA Board. Avoid County acquisition of this facility now or for the foreseeable immediate future.”

June 2011 – County officials asked the Florida Governmental Utilities Authority to assess Plantation Bay Utility in accordance with the DRI and Flagler County Comprehensive Plan. The county had received numerous complaints from residents about the system. Through the Florida Public Service Commission’s counsel, residents defeated a rate increase request made by ICI, because it was deferring maintenance to the system, and taking in too much profit.

December 2011 – The Florida Governmental Utilities Authority produced a report that listed significant owner liabilities including Occupational and Safety Hazards Act violations. The Authority estimated then that $3.9 million in improvements were needed. The Authority noted that the problems existed because of ICI’s deferred maintenance of the system. The FGUA recommended to the County that no more than $1 million be offered to ICI for the utility.

January 2013 – The Flagler County Board of County Commissioners reached consensus for former County Administrator Craig Coffey to create a partnership with the City of Bunnell to acquire the Plantation Bay Utility System from Mon Hossein.

• County Attorney Al Hadeed addressed the DRI signed in 1985 noting: Flagler County has a strong case under the DRI Development order adopted by the State of Florida. He pointed out that under the DRI, the county would not be liable for acquisition expenses or condemnation fees. ICI claimed it would prevail in such a suit. Hadeed advised the Board that a lawsuit would be time consuming, costly, and would require hiring utility experts for the case.

• Coffey explained the sale price was $5.5 million (down from $9 million initially sought by the seller) and “future credits” would be used to “buy down that price.”

  o Instead, the signed contract provides the seller “additional compensation” of 150 prepaid single-family residential connection impact fees – just shy of $700,000 in value. It also set caps for up to 400 additional connections on the impact fee costs – after the first 150 were used – at $4,500 for five years after closing on the sale (until September 2019), and $6,000 for the next five years for up to 400 additional connections. Current impact fees for a standard size household connection are a total of $4,655 (water: $2,146 and sewer: $2,509).

  o Also listed as a “material inducement to Seller” is a guarantee that the purchaser “shall provide water service to the Service Territory in the ordinary course of business,” and the “Seller or its designee shall be permitted to enforce this service obligation through the remedy of specific performance and all other legal remedies available.”

January/February 2013 – Wade Trim, Inc. prepared and presented “Plantation Bay Utility Condition Assessment,” a 41-page document that included recommend projects.

• “Based on the information reviewed, analyses performed, and assumptions made, the following principle conclusions were drawn with respect to the Plantation Bay Utility system:

  o Two repetitive [sic] administrative orders have been issued against the wastewater plant for not providing the [sic] continuous monitoring. In addition redundant treatment processes and a redundant effluent disposal site is required by the orders to remain in compliance. As of the writing of this report, there appears to
have been no action on the part of existing owner to address the orders and time schedule provided by the FDEP in the Administrative Orders. Wade Trim is aware of a draft FDEP consent order identifying penalties and legal action. It is recommended that the consent projects identified in this report commence immediately to bring the wastewater facility into compliance.

- The water and wastewater facilities have been in service approximately 23 years with many major components nearing their useful life. Visual inspection of various treatment structures identified serious corrosion and lack of maintenance. It is recommended that critical equipment identified in this report be replaced or refurbished in a timely manner as shown on the project schedule.
- Half of the installed well fields are unusable due to high color in Wells 3 and 4. The combined water volume supplied by Wells 1 and 2 are not capable of meeting the existing treatment capacity of the water treatment plant. It is recommended that a study of the water supply wells be conducted to either improve the water quality produced from Wells 3 and 4 and install additional wells. As new developments are platted and the Plantation Bay population increases, this effort will help the Utility to stay ahead of future water demands.
- Currently, one operator is responsible for the maintenance and oversight of the water treatment plant, wastewater treatment plant, and sanitary sewer lift stations. As plant demands reach 300,000 gallons per day, staffing needs will increase in accordance with permitting rules. The Utility owner needs to be aware and plan for the required increased staffing.

Recommended improvements related to needed capital improvement projects were presented in Section 4. The improvements include items to resolve non-compliance issues at the wastewater facility and to improve the condition of the various unit processes throughout the Utility for efficient and effective operation.

February 2013 – Four-hour joint meeting between the City of Bunnell and the Flagler County Board of County Commissioners.

February 2013 – Back to back Public Hearings after joint meeting
- Bunnell: Called to order at 9:58 p.m. to take action on the acquisition of the Plantation Bay Utility, which was approved 4 to 1 with Commissioner John Rogers dissenting.
- Flagler County: Called to order at 10:20 p.m. to take action on the acquisition of the Plantation Bay Utility, which was approved 4 to 1 with Commissioner George Harris dissenting. Just prior, the Board of County Commissioners voted unanimously that buying the utility was within public interest.

April 2013 – Interlocal agreement signed by the City of Bunnell and Flagler County.

August 28, 2013 – City of Bunnell closes on the purchase of the Plantation Bay Utility.
- The utility was purchased “as is.”
- This includes the FDEP Consent Order.
- Flagler County’s involvement with the utility was through an interlocal agreement with the City of Bunnell.
- Funding: $5,682,833 at 2.37% for 30 years

October 23, 2013 – Wastewater Treatment Plant Transfer of Permit signed over from Plantation Bay Utility to the City of Bunnell.
(Item 8b – continued)

**June 6, 2014** – FDEP State Revolving Fund loan of $383,999 for Phase 1 design of rehabilitation and upgrades (specifics noted in the following entries) to be repaid over 20 years.

**July 17, 2014** – **McKim & Creed, Inc.** Design & Permitting Support Services for Proposed Utility Improvements on a portion of the Plantation Bay Utility Plant Site consisting of Topographic, Wetland Limits and Seasonal High Water Elevation Survey and Environmental Services for U.S. Army Corps of Engineers and St. Johns River Water Management District/Florida Department of Environmental Protection Jurisdictional Wetland Delineations, Agency Verification and preparation of State Revolving Fund (SRF) Loan Application Environmental Documentation $17,785.00

**September 2, 2014** – **McKim & Creed, Inc.** Partial Project Scope to address a portion of Consent Order Issues; Perform Facility Planning, Develop State Revolving Fund (SRF) Planning Document, Perform Preliminary Engineering, Permitting (FDEP, County Site Plan), Geotechnical Investigation and Reject Storage Design $185,080.00

**November 2014** – County Administrator Craig Coffey meets with Plantation Bay residents and tells them Flagler County is “divorcing” the City of Bunnell as soon as the books for the utility are in order. Bunnell had been responsible for the day-to-day operations of the utility and the billing.

**February 2015** – Capital Improvement report compiled and includes information about test results of the four (4) wells concluding all but one (1) are poor or marginal because of organics. Engineering and Hydro Geologist determined rehabilitation “may” be possible and “may” improve water quality. The time softening water treatment process cannot remove all organics and must be treated with chlorine – which creates other undesirable byproducts. System flushing underway and continuing to keep water lines cleaner and improve water quality.

**October 1, 2015** – Flagler County fully acquires the utility from Bunnell that serves Plantation Bay residents.

**May 16, 2016** – **McKim & Creed, Inc.** Expanded Project Scope, in coordination with Kimley-Horn Associates, Inc., to address all Consent Order Issues; Update the SRF Planning Document, Revise Reject Storage Collection and Pumping System, Design Master Pump Station, Bid Alternates (10 MG & 0.5 MG Size using both Steel and Concrete Material) for Reject Water Storage Tank, Influent Screening System, Modification of the Chlorine Contact Tank, Permitting (FDEP, County Site Plan) and Prepare Construction Documents $107,635.00

**July 1, 2016** – $2 million Florida Department of Environmental Protection grant for design, permitting and construction of potable water improvements.

**July 18, 2016** – **Kimley-Horn Associates, Inc.** Expanded Project Scope, in coordination with McKim & Creed, Inc., to address “Process Design” Modifications providing for a new Wastewater Treatment Facility, Centrifugal Blowers, Sand Filter, Yard Piping, Motor Control Center Building Expansion, Electrical Equipment, Emergency Generator, Permitting Support (FDEP, County Site Plan) and Construction Document Preparation; Bid Administration Assistance, SRF Loan Assistance, St. Johns River Water Management District Cost-Share Funding Assistance and meet Class 1 Reliability requirements in accordance with the Consent Order $251,500.00

2017 – Flagler County initially prepared construction plans and specifications to address the FDEP Consent Order requirements in 2017. The project was to funded by the FDEP State Revolving Fund (SRF) program.
March 29, 2017 – Invitation to bid advertised.

May 17, 2017 – Bids received. All bids exceeded the project budget, and after discussions with the FDEP were subsequently rejected on June 23, 2017.

- As a result, FDEP issued a Consent Order OGC File Number 17-0988 authorizing the Plantation Bay Wastewater Treatment Facility improvements to be “phased.”
- Flagler County modified the project scope to construct the project in two phases.
- Phase 1 was successfully bid within the FDEP State Revolving Fund (SRF) program limitations. This scope of work includes 1 MG (million gallon) reject concrete tank, master pump station piping, and other safety improvements.
- Construction of the Phase 2 improvements was placed on hold until sufficient funding became available.

July 2017 – FDEP State Revolving Fund loan of $5.7 million to be repaid over 20 years for Phase 1 rehabilitation and upgrades.

September 5, 2017 – McKim & Creed, Inc. Value Engineering through “phasing” of Project Scope, in coordination with Kimley-Horn Associates, Inc., to Modify and Revise Construction Documents, Facilitate Influent Screening and Reject Storage Tank Bid Alternatives, Provide Bid Administration Assistance and be within Construction Funding Limits $21,376.00

September 5, 2017 – Kimley-Horn Associates, Inc. Value Engineering through “phasing” of Project Scope, in coordination with McKim & Creed, Inc., to Modify and Revise Construction Documents, through elimination of new Wastewater Treatment Facility, Centrifugal Blowers and associated Equipment; Revision to Electrical Design, Provide Bid Administration Assistance, SRF Application and Loan Document Update and be within Construction Funding Limits $24,960.00

February 19, 2018 – St. Johns River Water Management grant of $500,000 for Phase 1 wastewater treatment plant improvements.

April 2, 2018 – Board of County Commissioners approve moving forward with Phase 1 improvements. Construction activities are ongoing and planned for completion by August 1, 2019.

May 9, 2018 – Kimley-Horn Associates, Inc. Phase 1 Construction Engineering & Inspection Services, in combination with McKim & Creed, Inc., for Facilitating the Pre-Construction Conference and Progress/Coordination Meetings; Coordination of Construction Activities; Providing Clarifications and Interpretations to Contractor Questions; Review and Processing of Contractor Shop Drawings and Submittals; Provide Resident Project Representative (Inspector) to Visit Site, Observe Contractor’s Work and Provide Recommendations Regarding Work Acceptability; Review Applications for Payment; Facilitate Project Substantial/Final Completion; Project Close-out and SRF Construction Loan, Davis Bacon Wage Monitoring and Reporting and SJRWMD Cost-Sharge Agreement Compliance and Reimbursement; and FDEP Permitting Compliance $282,610.00

August 2018 – During construction of Phase 1, workers observed the existing treatment tank walls were weakening. Efforts remain underway to finish a temporary solution.
(Item 8b – continued)

January 16, 2019 – An Invitation to Bid (ITB) was advertised in the Flagler News Tribune as well as publicity broadcast on www.publicpurchase.com. ITB 19-018B requested bids from vendors to furnish all plant, labor, materials, equipment and supervision for the installation of a 0.50 MGD expandable Reverse Osmosis (RO) water treatment facility. The work includes demolition of existing piping; installation of new yard piping, including connections to the existing water treatment plant and the wastewater treatment facility; construction of a booster pump station; construction of a sewage lift station; construction of a new Reverse Osmosis Building; furnishing and installing RO process equipment, including enhanced raw water pretreatment clarification, automated disinfection and chemical feed systems; removal and replacement of backwash pumps; site improvements; electrical and instrumentation upgrades/modifications, including a standby generator; and all other equipment and work required for a complete, tested and operational system at the Plantation Bay Utility Facility located at 1600 Old Dixie Highway.

February 4, 2019 – Board of County Commissioners request that the design work for Phase 2 be expedited. Phase 2 work includes; construction of a new 0.475 mgd treatment facility; replacement of the existing tank; and the installation of additional blowers, yard piping and electrical systems.

March 18, 2019 – Board of County Commissioners approve work authorization for Kimley-Horn Associates to provide the professional services for Phase 2 design.

DEPARTMENT CONTACT: Julie Murphy, Public Information Officer 313-4039

Julie Murphy, Flagler County Public Information Officer, gave a presentation highlighting a brief history on the Plantation Bay Utility over the years. Continued with the revenues versus expenses of the utility and the effects of future growth on the utility.
ITEM 8C – REQUEST THE BOARD APPROVE THE RESOLUTION AUTHORIZING A LOAN FROM STERLING NATIONAL BANK IN AN AGGREGATE PRINCIPAL AMOUNT OF $3,800 FOR THE PURPOSE OF FINANCING THE INSTALLATION OF AN EXPANDABLE REVERSE OSMOSIS WATER TREATMENT FACILITY AT PLANTATION BAY

The following staff report was provided by County Administration:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
GENERAL BUSINESS / AGENDA ITEM #8c

SUBJECT: Request the Board Approve the Resolution Authorizing a Loan from Sterling National Bank in an Aggregate Principal Amount of $3,800,000 for the Purpose of Financing the Installation of an Expandable Reverse Osmosis Water Treatment Facility at Plantation Bay:

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $3,800,000 UTILITY SYSTEM REVENUE NOTE, SERIES 2019 FOR THE PURPOSE OF FINANCING THE COSTS OF THE INSTALLATION OF A WATER TREATMENT FACILITY AT THE COUNTY’S PLANTATION BAY WATER TREATMENT PLANT AS DESCRIBED HEREIN AND PAYING THE COSTS RELATED THERETO SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS CONTAINED HEREIN; AWARDING THE NOTE TO STERLING NATIONAL BANK AT A NEGOTIATED SALE; PROVIDING FOR THE RIGHTS AND SECURITIES OF THE OWNER OF THE NOTE; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION THERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

DATE OF MEETING: May 20, 2019

OVERVIEW/SUMMARY: Staff is seeking approval to execute a loan payable solely from and secured by a pledge of gross revenues derived from the operation of the Utility System after payment of operation and maintenance expenses. The issuance of Utility System Revenue Bond, Series 2019 (2019 Bond) is to finance the installation of an expandable Reverse Osmosis water treatment facility at Flagler County Utilities at Plantation Bay. The award of contract for installation is included on this BOCC meeting agenda.

PFM Financial Advisors, LLC (PFM) was engaged to serve as financial advisor for the proposed issuance of the 2019 Bond and distributed a Request for Proposal (RFP) to a list of local, regional and national financial institutions to identify the lending institution that could provide a tax-exempt, fixed rate loan at the lowest overall borrowing cost and terms most favorable. Based upon PFM’s review and discussions with Bond Counsel it was determined that Sterling National Bank provided the best combination interest rate and term.

The 2019 Bond amount of $3,800,000 is for the portion of the total project budget not funded by grant and water impact fees plus loan issuance costs estimated not to exceed $50,000. The term is 14.3 years and the interest rate is 2.99%. The 2019 Bond is issued on a non-bank qualified basis due to other potential borrowing needs of the County during the 2019 calendar year expected to exceed $10,000,000 during the calendar year. A bank qualified basis would yield lower interest rates. The 2019 Bond is non-callable for 4 years and callable at 101% of par in years 5-8 and callable without a premium thereafter.

FUNDING INFORMATION: A Budget Resolution is included for approval appropriating loan funds for the construction project at #54266 Plantation Bay New Water Treatment System.

DEPARTMENT CONTACT: Lorie Bailey Brown, CPA, Financial Services Director 313-4008

UNOFFICIAL
Lorie Bailey Brown, Financial Services Director, read the resolution and explained the RFP (request for proposal) put out to banks. Noted the project would be in the $6 million range and there were impact fees to pay for a portion and a $2 million grant. Stated the gap was $3.8 million, which was the reason for the loan. Pointed out this was for the water project, not the wastewater project, which was already underway.

County Administrator Cameron noted the project had previously been approved to move forward and he halted it to make sure the County would be able to service the debt out of the existing income stream and not be put in a position where it would have to raise user rates.

Commissioner Sullivan stated he had been following the progress of the Plantation Bay Utility for 10 years, noting when the County partnered with the City of Bunnell to fix the system they paid $5 million too much. Pointed out it was a second hand system brought from New Jersey worth less than $1 million. Stated he felt the BCC made the deal due to pressure from the owner and to do something or the people would be without water while knowing it was a bad deal. Stated the only reason he was considering this was because of the new County Administrator.

Commissioner Mullins stated he was not involved at the time of the purchase and did not know the history, but committed to the community he would dig into the problem. Pointed out he had thoroughly looked into the USDA and Florida Rural Water and they said this proposed action was the solution. He agreed the past commission paid too much for the utility. Stated was confident staff had fully vetted the option and this would solve the problem.

Chair O'Brien requested public comment.

George Mayo, Palm Coast, questioned impact fees in Plantation Bay.

Pat Murray, Plantation Bay, spoke in favor of moving forward and fixing the problems at Plantation Bay utility.

Jane Gentile Youd, Plantation Bay, spoke in favor of moving forward with fixing the utility and of the problems in the past with the consent order. Requested adding to the motion “under no circumstance would the county raise the user rates” and “have the county attorney go after FDEP to make the original respondent of the consent order pay every penny for the consent order’

Chair O'Brien requested public comment.

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(Item 8c – continued)

Robin Shefski, Plantation Bay, spoke about suffering from skin disorders since moving to Plantation Bay. Stated she was very happy the BCC was moving forward with fixing the utility for the health of the residents.

Linda Young, Plantation Bay, asked if the State had any responsibility for the utility as an overseer and asked why Volusia County was not part of the solution as part of Plantation Bay was in Volusia County. Stated she did not care whose fault it was she just wanted the current BCC to get the problems fixed.

Helen Siegel, Plantation Bay, noted earlier in the year there were three sealed bids that were unsealed at some point and asked if the current bidder was one of the three original bidders.

There was no further public comment.

Staff Response

Chair O’Brien confirmed impact fees were being collected in Plantation Bay.

County Administrator Cameron stated the original agreement waived the first 150 houses then $4,500 per home since the original agreement was signed almost five years ago. Pointed out after September 2019 at $6,000 would be in place for the next five years.

County Attorney Hadeed noted the majority of Plantation Bay acreage was located in Flagler County and the rest was in Volusia County.

A motion was made by Commissioner Hansen to approve Item 8c as presented. Seconded by Commissioner Mullins.

Commissioner Sullivan asked if Volusia County could challenge the amount of the impact fees.

County Administrator Cameron replied as long as there was a rational nexus for the impact fees whoever was connecting had to pay them.

Commissioner Mullins asked how much of the impact fees went to Volusia County.

County Administrator Cameron explained Flagler County collected the impact fees and assumed the full responsibility because it owned the utility.

Chair O’Brien called the question. Motion carried unanimously.
ITEM 8D – CONSIDERATION OF BID AWARD 19-018B TO SAWCROSSS, INC. FOR THE CONSTRUCTION OF PLANTATION BAY WATER TREATMENT PLANT IMPROVEMENTS IN THE AMOUNT OF $6,093,000

The following staff report was provided by County Administration:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
GENERAL BUSINESS / AGENDA ITEM # 8d

SUBJECT: Consideration of Bid Award 19-018B to Sawcross, Inc. for the Construction of Plantation Bay Water Treatment Plant Improvements in the Amount of $6,093,000.00.

DATE OF MEETING: May 20, 2019

OVERVIEW/SUMMARY: An Invitation to Bid (ITB) was advertised in the Flagler News Tribune as well as publicly broadcast on www.publicpurchase.com. ITB 19-018B requested bids from vendors to furnish all plant, labor, materials, equipment and supervision for the installation of a 0.50 MGD expandable Reverse Osmosis (RO) water treatment facility. The work includes demolition of existing piping; installation of new yard piping, including connections to the existing water treatment plant and the wastewater treatment facility; construction of a booster pump station; construction of a sewage lift station; construction of a new Reverse Osmosis Building; furnishing and installing RO process equipment, including enhanced raw water pretreatment clarification, automated disinfection and chemical feed systems; removal and replacement of backwash pumps; site improvements; electrical and instrumentation upgrades/modifications, including a standby generator; and all other equipment and work required for a complete, tested and operational system at the Plantation Bay Utility Facility located at 1600 Old Dixie Highway.

The “As-Bid” RO treatment process project was developed and includes provisions for the future expansion of the treatment capacity to a total of 1.0 MGD, in two 0.25 MGD increments. Provisions were also included for the County to perform Owner Direct Purchase on certain materials and/or equipment to be incorporated in the project. This effort is currently estimated to save approximately $100,000 in sales tax. The overall goal is to provide the County utility and its customers the greatest opportunity of having a facility that can be relied on to satisfactorily treat and provide water and minimize costs for foreseeable needs.

On January 16, 2019, the County received three (3) responses as detailed on the attached tabulation sheet. Staff reviewed the bids for conformity to specifications as well as to the terms and conditions outlined in the bid documents. Staff and the County’s design consultant, McKim & Creed, Inc., recommends the award to Sawcross, Inc. in the amount of $6,093,000.00 who submitted the lowest, responsive and responsible bid.

A capital construction project of this degree necessitates multiple tasks and cost allowances in addition to those of the actual construction contract. These will include a contingency to compensate for unforeseen field conditions.

Construction Phase services of the design professional for contractor shop drawing and other submittal review, possible plan and specification clarifications, inspection services to monitor and document the project progress and activities, as well as to confirm the results of contractor quality control efforts and to insure compliance with Florida Department of Environmental Protection requirements.

Staff efforts to administer the construction and other contracts.

The entire anticipated project cost is summarized as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sawcross, Inc. (low bid)</td>
<td>$6,093,000.00</td>
</tr>
<tr>
<td>Project Contingency (owner controlled)</td>
<td>$200,000.00</td>
</tr>
<tr>
<td>Construction Phase Services</td>
<td>$250,000.00</td>
</tr>
<tr>
<td>Estimated Project Total</td>
<td>$6,543,000.00</td>
</tr>
</tbody>
</table>
Faith Alkhatib, County Engineer, explained in 2019 the County received three responses and staff reviewed the bids then recommended Sawcross, Inc. be awarded the contract for $6,093,000, noting they were the lowest and responsible bid.

Commissioner Sullivan stated he wanted to know how the bid process worked and asked if the bid tallies were unanimous for the awarded bidder since there was three bidders.

Ms. Alkhatib replied the project was designed and permitted then it was advertised for the construction phases, then the bids were received and reviewed and the bid awarded.

Chair O’Brien requested public comment.

Jane Gentile Youd, Plantation Bay, spoke in favor of the agreement, but asked for a motion that contained a promise the users would not see an increase in the their utility bills.
(Item 8d – continued)

Helen Siegel, Plantation Bay, asked for an answer to her previous question; if the current awarded bidder was one of the original three bidders.

Kris Collora, Purchasing Manager, stated the project was bid only once with the initial solicitation issued in November 2018. Stated the initial bids were opened January 16, 2019 and this bidder was the low bidder. Pointed out they were evaluated not only on their price, but were reviewed by Purchasing and Engineering.

John Zetrouer, Plantation Bay, pointed out moving forward the county would receive $4,500 for the remaining 3,000 units yet to be built and felt at some point the user rates would be increased. Felt the BCC should add language so the current users would not receive a rate increase for the life of the loan.

There was no further public comment.

County Attorney Hadeed explained the recommendation made to the BCC in 2013 was to sue the developer under the development of regional impact order, which was the time to sue FDEP. Stated that time had passed and any recovery that would reduce what the ratepayers would have to pay no longer existed.

Explained the BCC could not lock the user rates; it was a legislative exercise of judgement that passed from commission to commission. However, the BCC could raise the rates without conducting a noticed public hearing and putting in the record the justification for rate increase.

A motion was made by Commissioner Mullins to approve Item 8d as presented. Seconded by Commissioner Hansen.

Chair O’Brien called the question. Motion carried unanimously.
PUBLIC HEARINGS

ITEM 9 – None

ITEM 10A – COUNTY ADMINISTRATOR REPORT/COMMENTS

County Administrator Cameron stated there was miscommunication with what was going on with the placement of the Sheriff, noting they had modified the plan for Palm Coast in order to temporarily accommodate the Sheriff at that location.

Stressed the County was committed to the district concept for the Sheriff’s delivery of service, pointing out there would be no central operations facility anywhere in the County. Stated the Courthouse and the Sheriff’s constitutionally required office will remain in the City of Bunnell, but Bunnell would not have its own district operations center for a couple of years. Explained staff anticipated doing a needs analysis and space study for the Bunnell facility at the beginning of the next budget year in October.

Stated it was suggested the County put a sign on the property where the Bunnell District Operations Center would be located stating it was the home of the future library and Sheriff’s facility, which he felt it was an excellent idea. Stated unless the BCC had guidance to the contrary, he intended to do that within the next few weeks. Stated the Sheriff had agreed to appear at a Bunnell City Commission meeting to explain the district concept, noting it was by far the best concept for delivering services and the Sheriff was now fully underway with it.

Explained the Palm Coast District Two Operations Center would be sized for the future and would temporarily accommodate the Sheriff’s administrative staff. Stated he would like to size the Bunnell District offices to accommodate future growth with a timeline of three years.

Stated the problem now was the temporary solution for the Sheriff after the Sears building option was no longer viable.

Stated if they could not figure out something with the dysfunctional situation the Sheriff now found himself in, it would probably be an expensive short-term solution due to leasing property. Stated staff had some ideas to fix a piece of it. Commented on the technology the Sheriff was using which continued to pay great dividends and felt the County should continue to support and encourage him to use that technology to save long-term money.

Commissioner Mullins commented on the concerns the people in his district had about Bunnell being the county seat and felt they were losing something that should be there by law.

County Administrator Cameron recognized the history of Bunnell as the county seat and its importance to Flagler County stressed it was up to all of them to recognize, preserve it and enhance it, if possible.

Stated the Sheriff continued to be in a very dysfunctional situation and staff was trying to find alternatives for his administration, patrol commander and detective unit. Stated he would continue to seek resolutions, but had not been productive to this point. Stated although the County felt it had alternatives for District Two, the alternatives for the main body of the Sheriff’s command staff were nowhere in sight.
(Item 10a – continued)

Spoke about the coming growth and noted the legislation just been passed clearly indicated the County needed a current impact fee study. Stressed impact fees were a critical part of managing growth, stating the people that were causing impacts should bear the financial burden, not the existing tax base. Stated as the County grew the impacts to the Sheriff, Fire Rescue and parks would only get worse if it did not have adequate resources to address them. Requested the BCC consider moving forward with an impact fee study.

Reminded the BCC staff was instructed to look at the service being provided by WastePro and had a beneficial meeting with Palm Coast where they received some commitments from the hauler. Pointed out since that meeting when complaints were received they were addressed by WastePro immediately.

Commissioner Mullins stated the County needed start moving things with the Sheriff; they could not keep dragging it out.

Commissioner Sullivan asked if the County should fix the bank building quickly and make it the Palm Coast District Office or should it lease the building the Sheriff brought forward.

County Administrator Cameron replied his preference for the immediacy and the actual cost was to pursue the lease option and divest the County of the bank. Stated he did not know what the outcome of the Sears building would be, but his preference was to rescind the transaction. Noted that was in the hands of the legal department.

Chair O’Brien asked the BCC to could come to a consensus to direct the County Administrator to come back at the June 3 meeting with his suggestion for reallocation of space in the courthouse with how many employees would be displaced and/or relocated on both sides. Asked what the cost would be and how long it would take to get it done. Stated he also wanted a discussion on the legal issues and what the ramifications would be if the BCC voted as landlords of the space. Noted it would also give the Clerk the opportunity to respond and give feedback.

Commissioner Hansen stated the county needed to look at other possible solutions, such as consider renting the 20,000 square-foot Beutlich building. Stated the County needed to look at all options, but he also felt it needed to understand the legal aspects of the Clerk’s Office space.

Commissioner Mullins stated he did not feel the BCC needed to look at other options.

A motion was made by Commissioner Mullins to instruct the County Administrator to sit down and get it resolved and to get the space situation worked out for the interim.

Commissioner Sullivan wanted to modify the motion that the BCC direct the County Administrator to agree to the Sheriff leasing space in the meantime for the Palm Coast District Office.
(Item 10a – continued)

Commissioner Mullins agreed.

Commissioner Sullivan stated he was making a point of saying they were not going to use the bank building.

**A motion was made by Commissioner Mullins to instruct the County Administrator to sit down and work out the space issue in the Courthouse and have the County move forward in leasing space for the Palm Coast District Office. Seconded by Commissioner Sullivan**

Chair O’Brien requested public comment.

Rick Staly, Flagler County Sheriff, stated if the decision was to not use the bank building, he was fine with that. Noted the bank building was approximately 4,500 square feet and the space he located was approximately 2,000 square feet, but would make it work. Pointed out he had the legal authority to sign the lease and could probably move it faster than the BCC could. Explained the end result would be it would save $78,000 per year for the taxpayers based on the current rent the landlord was charging.

There was no further public comment.

After discussion, Commissioner Mullins stated the BCC should vote on the motion he made.

Chair O’Brien called the question. Motion carried unanimously.

**ITEM 10B – COUNTY ATTORNEY REPORT/COMMENTS**

County Attorney Hadeed reported the notices had gone out on the Sears building issue and because it was a legal matter, he asked the BCC not to discuss it because it could go to court.

Stated the tangible personal property tax roll of approximately $6 million had 99.99% of the amount successfully collected and validated in the circuit court.

Reviewed the Waste Pro efforts to remediate the situation and it was obtaining an industrial revenue bond for up to $50 million. Noted it was a statewide project among all of the sites with $3.1 million for Flagler County to purchase equipment, containers and other machinery. Stated he would bring the BCC a resolution, if the $3.1 million bond was approved.

Stated his office had been spending a great deal of time gearing up for the construction of the beach berms on the seven-mile stretch from south of Beverly Beach to the southern county line. Noted the County would have to secure approximately 300 easements in order to lay the foundation for that future work.

There was discussion on the Army Corps re-nourishment plan.
ITEM 10C – COMMISSION ACTION

There was BCC consensus to have the County Administrator pursue an impact fee study.

Commissioner Sullivan stated he had been told the Lehigh Trail was getting bumpy and asked staff paint the bad spots for a short term fix so people would be forewarned.

Commissioner Mullins passed out pamphlets on mental health and homelessness resources. Requested the BCC approve funding to print more pamphlets.

County Administrator Cameron noted 1,000 pamphlets were printed at a cost of $450, noting he had the ability to expend small amounts of money for things not in the budget. Stated when one commissioner asked for something he tried to be accommodating, but would like to get a consensus of the BCC before proceeding with a lot of printing.

Chair O’Brien asked the County Administrator to come back with an exact cost.

Commissioner Mullins commented on the City of Bunnell notice for the church to create a shelter and different groups were working on addressing the homeless issue. Stated he sent an email to the rest of the BCC on his tour of the Salvation Army’s Center of Hope in Volusia County and was willing to work with Flagler County to house the homeless. Stated City of Hope was a full program for the homeless that worked on addiction, employment and community cleanup.

County Administrator Cameron stated if the County Attorney provided the right kind of agreement between the County and the Salvation Army it would constitute a viable alternative to sleeping in the woods.

Chair O’Brien stated he was not opposed to looking at a draft agreement.

There was BCC consensus to have the County Administrator and County Attorney pursue an agreement with the Salvation Army and bring it back to the BCC for consideration.

Chair O’Brien suggested the BCC look at its rules of procedure in order to streamline the meeting processes such as combining Commission Action and Commission Reports. In addition, bring in anyone that was going to have pictures taken 15 minutes early in order to save time during the meeting.

County Administrator Cameron suggested he work with the County Attorney on some pro forma recommendations for a number of things.

County Attorney Hadeed agreed.
ITEM 10D – COMMUNITY OUTREACH

None

ITEM 10E – COMMISSION REPORTS/COMMENTS

Commissioner Ericksen thanked the people that helped to put out 402 American flags at the Craig-Flagler Palms Memorial Gardens to honor those who were in the military for Memorial Day.

Commissioner Hansen stated Flagler County did not have any sick buildings and any reference to such was inappropriate.

Commissioner Mullins announced his following town hall meetings:

- May 21 at 5:30 p.m. at the Chicken Pantry Bunnell
- June 10 at 6:00 p.m. at Haw Creek with FDOT to discuss Cody’s Corner proposed roundabout and other options
- June 20 at 6:00 p.m. at the African American Cultural Society on the needs of the community

ADJOURNMENT

The meeting was adjourned by consensus at 8:11 pm.

APPROVED AND ADOPTED __________________________________________________

ATTEST:  ________________________________________________________________

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

Tom Bexley  Donald T. O’Brien, Jr.
Clerk of the Circuit Court & Comptroller  Chair
SUBJECT: Ratification of Flagler County Emergency Proclamations Extending the State of Local Emergency – Hurricane Matthew

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: On October 3, 2016, Governor Scott issued Executive Order No. 16-230 declaring a state of emergency in the State of Florida due to Hurricane Matthew. The following day, on the recommendation of the public safety emergency manager and the county administrator, the Chair issued a Proclamation declaring a state of local emergency. The declared state of emergency allows the County to bypass normal protocols, for example regarding procurement, to the extent necessary to address the emergency. By law, the Proclamation may only last for seven days but may be renewed as needed. Under Section 12-34 of the County Code of Ordinances, actions of the County Administrator pursuant to a declared state of local emergency must be reported to the Board as soon as practical under the circumstances.

Hurricane Matthew struck the County on October 7, 2016 devastating the entire coastline of the County, downing many trees countywide, damaging hundreds of homes and knocking out electricity for the vast majority of residents. As a result, on October 11, 2016 and every seventh day thereafter, the Chair, by Proclamation, extended the state of local emergency for additional seven day periods as the County continues the process of recovery. The damaged dune system and severe erosion of the beach makes public infrastructure and neighborhoods on the barrier island vulnerable to storm and tidal events. The coastline remains in disrepair with damaged dunes and much of A1A in Flagler Beach in need of a long term solution.

The County has completed installation of seawalls in Painters Hill and is conducting a dune restoration project by repairing dune walkovers and installing an emergency berm along much of the coastline. The County has established special assessment districts to recoup some of the costs of the seawall and dune restoration projects. In addition, the County has passed an ordinance recognizing the right of customary use of the beach by the public, including privately owned portions of the beach benefitting from the dune restoration project. Finally, the County has implemented an educational campaign called, “Dodge the Dunes,” to protect the emergency berm and new dune vegetation.

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Jonathan Lord, Emergency Management Director (386) 313-4240

RECOMMENDATION: Request the Board ratify the Proclamations Extending the State of Local Emergency for Hurricane Matthew.

ATTACHMENTS:
1. Proclamation Extending State of Local Emergency – Hurricane Matthew, 06/04/2019
2. Proclamation Extending State of Local Emergency – Hurricane Matthew, 06/11/2019
FLAGLER COUNTY, FLORIDA
PROCLAMATION EXTENDING
STATE OF LOCAL EMERGENCY
(Hurricane Matthew)

WHEREAS, based on the recommendation of the Public Safety Emergency Manager, the Sheriff, and the County Administrator in preparation for the imminent impact of Hurricane Matthew on Flagler County, the Chair of the Board of County Commissioners of Flagler County, Florida issued a Proclamation declaring a state of local emergency, dated October 4, 2016; and

WHEREAS, Hurricane Matthew passed along the County’s coastline on October 7, 2016, severely damaging the entire dune system of the County, flooding hundreds of homes through dune breaches and destroying public infrastructure and other public and private property along the coastline; and

WHEREAS, on October 11, 2016, and every seventh day thereafter, based on the further recommendation of the County Administrator and the Emergency Management Chief, the Chair of the Board of County Commissioners extended the state of local emergency for additional seven day periods; and

WHEREAS, the Board of County Commissioners ratified each of the Proclamations declaring and extending the local state of emergency by unanimous votes at public meetings; and

WHEREAS, while recovery efforts in response to Hurricane Matthew were still underway, Hurricane Irma struck Flagler County on September 11, 2017, further scarping the already badly damaged dune system of the county, flooding hundreds of homes, and nearly collapsing beachfront homes in the Painters Hill area of unincorporated Flagler County; and

WHEREAS, the County has installed a seawall in Painters Hill and is actively engaged in the installation of an emergency protective berm along the dune in most of unincorporated Flagler County; and

WHEREAS, the County has repaired dune crossovers and installed specialized mats over the emergency protective berm at certain beach access points for pedestrian and authorized vehicular traffic; and

WHEREAS, the County issued Emergency Order 2018-02, prohibiting driving on the dunes and the emergency protective berm, and Emergency Order 2018-03 preventing pedestrian and equestrian traffic on the dunes and emergency protective berm, all in order to preserve the structural integrity of the berm to allow dune vegetation to take root and prevent erosion; and

WHEREAS, the Board of County Commissioners passed an ordinance in July 2018 recognizing the customary use of the beaches by the public, including privately owned portions of the beaches adjacent to the emergency berm and recently installed seawalls in Painters Hill in order, in part, to validate the use of public resources for the
emergency repairs in light of new state law governing customary use of the beaches; and

WHEREAS, to compliment these engineering and regulatory measures, the County is conducting an educational campaign to protect the fragile dune system entitled, "Dodge the Dunes"; and

WHEREAS, the need to facilitate procurement for these and other recovery efforts is urgent due to the risk of future hurricanes, and accordingly, the County has adopted an expedited procurement process under its emergency powers; and

WHEREAS, extending the local emergency declaration facilitates the County's ability to continue to respond to emergency conditions along the beaches and within lands containing public and private property and infrastructure, including the securing of funding sources and entering into agreements with adjacent property owners and municipalities—all with the goal of mitigating future losses.

NOW THEREFORE, in accordance with the emergency power vested in the County pursuant to Chapter 252, Florida Statutes, and Section 12-34 of the Flagler County Code of Ordinances, Flagler County hereby proclaims that:

1. The state of local emergency declared on October 4, 2016, extended by emergency proclamations every seventh day thereafter and duly ratified by the Board of County Commissioners, is hereby extended for an additional 7 days from the effective date of this Proclamation, unless terminated or modified earlier or extended in accordance with law.

2. All emergency powers authorized by the Proclamation of October 4, 2016, declaring a state of local emergency, and extended every seventh day thereafter are hereby retained and continued for the duration of this Proclamation.

DONE AND ORDERED in Flagler County, Florida, this 4th day of June, 2019.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

Donald T. O'Brien Jr., Chair

CONCURRENCE:

Jonathan Lord, Emergency Management Director

APPROVED AS TO FORM:

Al Hadeed, County Attorney
SUBJECT: Ratification of Flagler County Emergency Proclamations Extending the State of Local Emergency – Hurricane Irma.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: On September 4, 2017, Governor Scott issued Executive Order No. 17-235 declaring a state of emergency in the State of Florida due to Hurricane Irma. The following day, on the recommendation of the Public Safety Emergency Manager and the County Administrator, the Chair issued a Proclamation declaring a state of local emergency. The declared state of emergency allows the County to bypass normal protocols, for example regarding procurement, to the extent necessary to address the emergency. By law, the Proclamation may only last for seven days but may be renewed as needed. Under Section 12-34 of the County Code of Ordinances, actions of the County Administrator pursuant to a declared state of local emergency must be reported to the Board as soon as practical under the circumstances.

Hurricane Irma struck the County on September 11, 2017 flooding and damaging hundreds of homes, knocking out electricity for the vast majority of residents, and damaging an already compromised dune system on the barrier island. As a result, on September 12, 2017 and every seventh day thereafter the Chair, by Proclamation, extended the state of local emergency for additional seven-day periods as the County continues the process of recovery. The Board has ratified each of the Proclamations at regular meetings.

As part of the recovery, the County has repaired dune crossovers and other public infrastructure along the coastline and installed seawalls in Painters Hill. The County is also conducting a dune restoration project by installing an emergency berm along most of the coastline. The County has established special assessment districts to recoup some of the costs of the seawall and dune restoration projects. The County has passed an ordinance recognizing the right of customary use of the beach by the public, including privately owned portions of the beach benefitting from the dune restoration project. Finally, to protect the berm and new dune vegetation, the County has implemented an educational campaign called, “Dodge the Dunes.”

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Jonathan Lord, Emergency Management Director (386) 313-4240

RECOMMENDATION: Request the Board ratify the Proclamations Extending the State of Local Emergency for Hurricane Irma.

ATTACHMENTS:
1. Proclamation Extending State of Local Emergency – Hurricane Irma, 06/04/2019
2. Proclamation Extending State of Local Emergency – Hurricane Irma, 06/11/2019
FLAGLER COUNTY, FLORIDA
PROCLAMATION EXTENDING THE
STATE OF LOCAL EMERGENCY
(Hurricane Irma)

WHEREAS, based on the recommendation of the Emergency Management Chief and the County Administrator concerning the potential impact of Hurricane Irma on Flagler County, the Chair of the Board of County Commissioners of Flagler County issued a Proclamation declaring a state of local emergency on September 5, 2017; and

WHEREAS, Hurricane Irma struck Flagler County on September 11, 2017, further scaring the dune system of the county already badly damaged by Hurricane Matthew in 2016, also flooding hundreds of homes and nearly collapsing beachfront homes in the Painters Hill area of unincorporated Flagler County; and

WHEREAS, on September 12, 2017, and every seventh day thereafter, based on the further recommendation of the County Administrator and the Emergency Management Chief, the Chair of the Board of County Commissioners extended the state of local emergency declared for Flagler County for additional seven day periods; and

WHEREAS, the Board of County Commissioners ratified the Proclamations declaring and extending the local state of emergency by unanimous vote at public meetings following each of the Proclamations; and

WHEREAS, the County has repaired dune crossovers and constructed seawalls in Painters Hill, and is installing an emergency protective berm along the dune in most of unincorporated Flagler County; and

WHEREAS, to accommodate the critical time table for these recovery efforts, the County has adopted a procurement process under its emergency powers; and

WHEREAS, the Board of County Commissioners passed an ordinance in July 2018 recognizing the customary use of the beaches by the public, including privately owned portions of the beaches adjacent to the emergency berm and seawalls in Painters Hill in order, in part, to validate the use of public resources for the emergency repairs in light of new state law governing customary use of the beaches; and

WHEREAS, the County issued Emergency Order 2018-02, prohibiting driving on the dunes and the emergency protective berm, and Emergency Order 2018-03 preventing pedestrian and equestrian traffic on the dunes and emergency protective berm, all in order to preserve the structural integrity of the berm to allow dune vegetation to take root and prevent erosion; and
WHEREAS, to compliment these engineering and regulatory measures, the County is conducting an educational campaign to protect the fragile dune system entitled, “Dodge the Dunes”; and

WHEREAS, extending the local emergency declaration facilitates the County’s ability to continue to respond to emergency conditions along the beaches and within lands containing public and private property and infrastructure, including the securing of funding sources and entering into agreements with adjacent property owners and municipalities to facilitate these activities—all with the goal of mitigating future losses.

NOW THEREFORE, in accordance with the emergency power vested in the County pursuant to Chapter 252, Florida Statutes, and Section 12-34 of the Flagler County Code of Ordinances, Flagler County hereby proclaims that:

1. The state of local emergency declared on September 5, 2017, is hereby extended for an additional 7 days from the effective date of this Proclamation, unless terminated or modified earlier or extended in accordance with law.

2. All emergency powers authorized by the Proclamation of September 5, 2017, declaring a state of local emergency, and extended every seventh day thereafter are hereby retained and continued for the duration of this Proclamation.

DONE AND ORDERED in Flagler County, Florida, this 4th day of June, 2019.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

Donald T. O’Brien Jr., Chair

CONCURRENCE:

Jonathan Lord, Emergency Management Director

APPROVED AS TO FORM:

Al Hadeed, County Attorney
SUBJECT: CareerSource Flagler/Volusia 2019-2020 Annual Budget and Appointment of Board Members.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: The Regional Workforce Development Board of Flagler and Volusia Counties (CareerSource - Program Administrator) provides employment training services for Flagler and Volusia County residents. The Flagler and Volusia Counties Board of County Commissioners serve as the local government authority for this Board. CareerSource is seeking action on the following:

1. Approval of the Annual Budget of $9,206,821 for Fiscal Year 2019-20. CareerSource receives its funding from the Florida State Department of Economic Opportunity. Florida Legislation mandates that the local elected officials approve the CareerSource annual budget. The CareerSource Flagler Volusia Workforce Development Board at its meeting on May 24, 2019 approved the budget.

2. Approval of the appointment of:
   a. Mr. Daniel Hunt
   b. Ms. Denise Breneman
   c. Mr. John Wanamaker
   d. Ms. Cheryl Tanenbaum
   e. Mr. Brad Giles

Mandatory Seats (not requiring nomination from a trade association):
   a. Mr. R. Bradley Harris
   b. Ms. Helga van Eckert
   c. Mr. Joseph Mullins

In accordance with the Interlocal Agreement between Flagler and Volusia Counties regarding the CareerSource Flagler/Volusia Board, both Counties must approve the appointment.

CareerSource promotes a seamless delivery of services to job seekers, youth and business with streamlined access to a wide range of high quality information and services about jobs, careers, labor markets, skill standards, education and training programs for Flagler and Volusia residents.

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Administration (386) 313-4001

RECOMMENDATION: Request the approval of the CareerSource Flagler/Volusia 2019-2020 Annual Budget and the Appointment of Board Members.

ATTACHMENTS:
1. CareerSource Flagler/Volusia Letter Dated May 24, 2019
2. CareerSource Flagler/Volusia Summary Budget Comparison
3. 2019-2020 Annual Budget and Approval Page
4. Application from Mr. R. Bradley Harris
5. Letters of Nomination:
   a. Mr. Daniel Hunt
   b. Ms. Denise Breneman
   c. Mr. John Wanamaker
   d. Ms. Cheryl Tanenbaum
   e. Mr. Brad Giles

6. CareerSource Flagler Volusia Board Roster
FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA REQUEST FORM

This form is to be used for issues that may warrant specific discussion and/or action at a Regular Commission meeting such as proclamations, resolutions and recognition of local individuals, civic group's, etc. or matters that may be of major concern to the entire community. Please submit this form to the County Administrator's office 20 days in advance of the requested scheduled Commission meeting date. Agenda requests will be reviewed by the County Administrator's office to determine if the issue requires or deserves Board discussion and/or action. If the agenda request is approved, requestors will be contacted regarding the date the item will be on the agenda. If you have any questions, please call 386/313-4001.

If your agenda request is not approved it should be noted that any person, group or organization is welcome to address the Commission regarding matters of interest related to Flagler County government. A thirty-minute time period for public comment is allocated at the beginning and the end of each regular Board meeting. Speakers are allowed up to three minutes to address the Commission on items not on the agenda. A sign-in sheet is provided at the entrance to the Board room for those who wish to address the Commission. This Request form is not required to be filled out for those who wish to address the Commission during the Public Comment portion of Commission meetings.

PLEASE PRINT

Applicant's Name: ROBIN KING
Phone: 386-323-7077 Email: robirdking@careersourcefl.com
Address: 329 Bill France Blvd., Daytona Beach, FL 32114
Group or Organization Name (if applicable) CareerSource FLAGLER VOLUSIA
Subject Matter to be Discussed: CareerSource FLAGLER VOLUSIA 2019-2020 BUDGET Approval. Renew CareerSource FLAGLER VOLUSIA Board Member Appointments
Has the subject been discussed and/or reviewed by County Departments or Officials? ☑ No ☐ Yes:
Name(s) of County Dept. or Officials issue discussed with

Specific questions and/or action desired from the Board of County Commissioners:

☐ APPROVE 2019-2020 BUDGET
☐ Renew Board Member appointments

Signature of Applicant [Signature]
Date 5/24/19

Presentations limited to 15 minutes per adopted Commission Meeting Procedures. All documents submitted become public record and must remain on file with the County Clerk.

"Fax completed form to 386-313-4101 20 days in advance of the scheduled meeting requested"
May 24, 2019

Ms. Luci Dance  
Assistant to the Commission  
Flagler County  
1769 E. Moody Boulevard, Building Two-Suite 302  
Bunnell, Florida 32110

Dear Ms. Dance:

CareerSource Flagler Volusia is requesting that the following items be placed on the June 17, 2019 Flagler County Board of County Commissioners Agenda.


Florida legislation requires that our Annual Budget be approved by our local elected officials. The Budget was approved by the CareerSource Flagler Volusia Board of Directors at their meeting on May 24, 2019.

2. Appointment of renewing Board of Directors.

Nominations are enclosed for private-sector business and community-based members who previously served on the board and whose terms are expiring:

   Mr. Daniel Hunt  
   Ms. Denise Breneman  
   Mr. John Wanamaker  
   Ms. Cheryl Tanenbaum  
   Mr. Brad Giles

County-appointed members:

   Mr. R. Bradley Harris  
   Ms. Helga van Eckert  
   Mr. Joseph Mullins
May 24, 2019

Ms. Luci Dance
Page Two

Thank you for your assistance with this matter. If you have any questions, or need any additional information, please do not hesitate to contact me at 386-323-7077.

Sincerely,

Robin King
President & CEO
## Summary Budget Comparison

**CareerSource Flagler Volusia**

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<td>Operating Expenses</td>
<td>$1,184,895</td>
<td>$1,201,648</td>
<td>$1,165,178</td>
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<td>Training</td>
<td>$1,169,550</td>
<td>$799,452</td>
<td>$744,184</td>
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<td>Client Services</td>
<td>$233,939</td>
<td>$418,290</td>
<td>$435,072</td>
<td>$493,482</td>
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<td>Contracted Client Services</td>
<td>$2,476,850</td>
<td>$2,765,897</td>
<td>$2,835,350</td>
<td>$2,931,174</td>
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<tr>
<td>Youth Services</td>
<td>$852,237</td>
<td>$931,662</td>
<td>$911,662</td>
<td>$940,833</td>
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<tr>
<td><strong>Total Operating Budget</strong></td>
<td>$7,188,507</td>
<td>$7,417,709</td>
<td>$7,383,948</td>
<td>$8,126,899</td>
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</table>

### Variance to Adopted Budget

| Reserves | $853,402 |
| Total Expenditures | $7,188,507 |
| Revenues vs Expenditures | $1,018,040 |

| Revenues vs Expenditures | $1,018,040 |
| Total Expenditures | $7,188,507 |

### Expenditures By Category

![Pie chart showing budget breakdown by category](chart.png)

- **Personal Services**: 15%
- **Operating Expenses**: 15%
- **Contracted Client Services**: 36%
- **Training**: 15%
- **Client Services**: 5%
- **Youth Services**: 12%
To the attention of: Budget Review
CareerSource Florida
PO Box 13179
Tallahassee, Florida 32317

The budget attached hereto, was approved by the Board of Directors of CareerSource Flagler Volusia/Local Workforce Development Board 11 on May 24, 2019.

Carlos Valderrama, Chair
CareerSource Flagler Volusia

At the Flagler Board of County Commissioners Meeting held on June 17, 2019, the budget, a copy of which is attached hereto, was approved by the designated local elected official of Flagler County/Local Workforce Development Board 11.

Donald O'Brien, Chair
Flagler Board of County Commissioners

For questions related to the submitted budget, please contact Ms. Jennifer Campbell, CFO at (386) 323-7078.
APPLICATION FOR CAREERSOURCE FLAGLER VOLUSIA BOARD MEMBERSHIP

Today's Date: May 16, 2019

I. Name: Brad Harris

II. Organization/Company Name: Volusia County Economic Development

Occupation/Title: Acting Director

Prior Occupation if retired: NA

Business Address: 700 Catalina Dr., Suite 200
Daytona Beach, FL 32114

Home Address: 1870 Circle S Road
Ormond Beach, FL 32174

Business Phone number: 386-248-8048
Fax number: 386-2384761
Cell Phone number: 386-566-7695
Email Address: rbharris@volusia.org
Assistant's Email Address and Phone Number:


III. Demographic Data (Optional):

a. Gender: Female Male

b. Ethnicity: Caucasian African American or Black Asian
   Hispanic American Indian Other

c. Citizenship: U.S. Citizen or Naturalized Citizen
   Lawfully Admitted Alien or Refugee

d. Veteran: No Yes:
   Branch ________________________________

e. Educational Degrees, College or University, type of degree, include specialized training:


IV. What is your interest in becoming a member of the CareerSourceFV Board?

To offer a County government perspective as workforce strategy and programs are discussed and to provide beneficial insights from personal experience as both employee and employer.


V. Have you ever been a Customer of Career Center Services?

Not in recent history
VI. What special experience/training or qualifications do you have that you could bring to the Board?

Previous experience as a Board member and many years as a manufacturing and business professional.

VII. Other current or previous Board membership (include offices held or Committee Service): Served 7+ years on CareerSource FV Board

VIII. Any personal information you wish to share with the Nomination Committee: No

IX. Conflicts of Interest (any known or potential conflicts of interest which may be applicable to membership on the CareerSourceFV Board) are as follows: If none, indicate

None

X. Much of the work of the Board of Directors is accomplished by the Board’s committees. Please select the Committee(s) you would like to serve on:

( ) In order to ensure a qualified talent pool for today and tomorrow, the Career Pathways Committee ensures that our workforce system is sector driven and guided by continuous and accurate business intelligence.
The Industry Demand Connection Committee focuses on an effective workforce career system by involving businesses in solutions to develop talent opportunities.

The Finance Committee provides oversight to ensure effective use of funds by investment in identified business-valued training.

Return application to: Nominations Committee
CareerSource Flagler Volusia
329 Bill France Blvd.
Daytona Beach, FL 32114

Please feel free to attach a résumé and any additional sheets as needed.
May 14, 2019

Ms. Robin King
President & CEO
CareerSource Flagler Volusia
329 Bill France Blvd.
Daytona Beach, FL 32114

RE: Board Appointment Request

Dear Ms. King:

Please consider this letter as a formal request and nomination to retain Mr. Daniel P. Hunt as a member on your Board of Directors. This letter is being sent due to the fact that his current appointed term is soon to expire.

If you have any questions or if I may be any assistance, please do not hesitate to contact me.

Sincerely,

Bernardo Ibarra
President

CC: Daniel P. Hunt
May 3, 2019

Ms. Robin King  
President & CEO  
CareerSource Flagler Volusia  
329 Bill France Blvd.  
Daytona Beach, FL 32114

Dear Robin:

Please accept this as our formal recommendation to nominate the following individuals to the CareerSource Flagler Volusia Board of Directors:

Mr. Brad Giles, Giles Electric  
Ms. Denise Breneman, Special Olympics Florida

Please let me know if you have any questions.

Sincerely,

Nancy Keefer, CCE  
President & CEO
May 3, 2019
Robin King
President & CEO
Career Source
329 Bill FranceBlvd.
Daytona Beach, FL 32114

Dear Ms. King,

We are writing you regarding Mr. John Wannamaker, Coldwell Banker Commercial AI Group, and your consideration of him as a continued Board Member for Career Source Flagler/Volusia. As a previous Board member of the DeLand Area Chamber of Commerce & Orange City Alliance as a Presidential appointment for 3 years, and community partner, we highly recommend his nomination to your Board for an additional term.

Please let us know if we can provide any additional information.

Sincerely,

[Signature]

Tammy Mauldin
Executive Director
DeLand Area Chamber of Commerce & Orange City Alliance
May 3, 2019

Ms. Robin King
President & CEO
CareerSource Flagler Volusia
329 Bill France Blvd.
Daytona Beach, FL 32114

Dear Ms. King:

Please accept this as our formal recommendation to nominate Ms. Cheryl Tanenbaum, Intracoastal Bank, to the CareerSource Flagler Volusia Board of Directors.

Please let me know if you have any questions.

Sincerely,

Jorge Gutierrez
President & CEO
## WORKFORCE DEVELOPMENT BOARD OF FLAGLER AND VOLUSIA COUNTIES, INC
### Region 11
#### Local Workforce Development Board

<table>
<thead>
<tr>
<th>WIOA Mandate</th>
<th>LWDB Member Name/Address</th>
<th>Qualifications</th>
<th>Nominating Organization</th>
<th>Demographic</th>
<th>Term of Appointment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Post-Secondary Education</td>
<td>LoBasso, Tom&lt;br&gt;Daytona State College&lt;br&gt;P.O. Box 2811&lt;br&gt;Daytona Beach, Florida 32120-2811</td>
<td>President</td>
<td>Daytona State College</td>
<td>W/M</td>
<td>07/01/17-06/30/20</td>
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<tr>
<td>Local Education Apprenticeship</td>
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<tr>
<td>Organized Labor</td>
<td>Albert, Elizabeth&lt;br&gt;Volusia United Educators&lt;br&gt;1381 Educators Road&lt;br&gt;Daytona Beach, FL 32124</td>
<td>President</td>
<td>Central Florida AFL-CIO</td>
<td>W/M</td>
<td>01/01/19-06/30/20</td>
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<tr>
<td>Organized Labor</td>
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<tr>
<td>Community Based Organization</td>
<td>Hunt, Daniel&lt;br&gt;International Brotherhood of Electrical Workers&lt;br&gt;5901 Airport Road&lt;br&gt;Port Orange, FL 32128</td>
<td>Business Manager</td>
<td>IBEW #756 Central Labor Council - AFL-CIO</td>
<td>W/M</td>
<td>07/01/19-06/30/22</td>
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<tr>
<td>Disabled</td>
<td>Breneman, Denise&lt;br&gt;Special Olympics Florida – Volusia and Flagler&lt;br&gt;406 Quay Assisi&lt;br&gt;New Smyrna Beach, Florida 32167</td>
<td>County Director</td>
<td>Daytona Chamber of Commerce</td>
<td>W/F</td>
<td>07/01/19-06/30/22</td>
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# WORKFORCE DEVELOPMENT BOARD OF FLAGLER AND VOLUSIA COUNTIES, INC

Region 11
Local Workforce Development Board

<table>
<thead>
<tr>
<th>WIOA Mandate</th>
<th>LWDB Member Name/Address</th>
<th>Qualifications</th>
<th>Nominating Organization</th>
<th>Demographic</th>
<th>Term of Appointment</th>
</tr>
</thead>
</table>
| Economic Development | Harris, R. Bradley  
Department of Economic Development  
700 Catalina Drive, Suite 115  
Daytona Beach, FL 32114 | Acting Economic Development Director | County of Volusia | W/M | 07/01/19-06/30/22 |
| Economic Development | Van Eckert, Helga  
Flagler County Dept. of Economic Development  
1769 E. Moody Blvd., Bldg. 2  
Bunnell, Florida 32110 | Manager | Flagler County | W/F | 07/01/19-06/30/22 |
| Business | Schmitz, Bret  
Hudson Technologies  
1327 US Highway 1  
Ormond Beach, FL 32174 | President | Volusia Manufacturers Association | W/M | 07/01/17-06/30/20 |
| Local Elected Official/Community Based Organization - Veterans | Mullins, Joseph  
Flagler County Commission  
1200 E. Moody Blvd.  
Bunnell, FL 32110 | Commissioner District 4 | Flagler County | W/M | 07/01/19-06/30/22 |
| Vocational Rehabilitation | Lewis-Brown, Yovancha  
Vocational Rehabilitation  
2050 Art Museum Drive, Suite 205  
Jacksonville, Florida 32207 | Area Director | Vocational Rehabilitation | BF | 07/01/18-06/30/21 |
| Business | Valderrama, Carlos  
Valderrama Partners, LLC  
1676 Providence Blvd.  
Deltona, FL 32725 | Managing Partner | Hispanidad Foundation | H/M | 07/01/18-06/30/21 |
# WORKFORCE DEVELOPMENT BOARD OF FLAGLER AND VOLUSIA COUNTIES, INC

Region 11

Local Workforce Development Board

<table>
<thead>
<tr>
<th>WIOA Mandate</th>
<th>LWDB Member Name/Address</th>
<th>Qualifications</th>
<th>Nominating Organization</th>
<th>Demographic</th>
<th>Term of Appointment</th>
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<tr>
<td>Business</td>
<td>Lanham, Mark Walgreens 800 Highway A1A New Smyrna Beach, FL 32169</td>
<td>Manager</td>
<td>New Smyrna Economic Development</td>
<td>W/M</td>
<td>07/01/17-06/30/20</td>
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<tr>
<td>Business</td>
<td>Lafferty, Sean LCP Machine 515 Ninth Street Bunnell, FL 32110</td>
<td>President</td>
<td>Flagler Chamber of Commerce</td>
<td>W/M</td>
<td>07/01/17-06/30/20</td>
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<tr>
<td>Business</td>
<td>Davis, Robert Hotel Lodging Association of Volusia County 6232 Morning Drive Port Orange, FL 32127</td>
<td>President/Board Member</td>
<td>Hotel Lodging Association of Volusia County</td>
<td>W/M</td>
<td>07/01/18-06/30/21</td>
</tr>
<tr>
<td>Business</td>
<td>Wanamaker, John Coldwell Banker Commercial AI Group 1019 Town Center Drive, Suite 200 Orange City, Florida 32763</td>
<td>Partner/Broker</td>
<td>DeLand Chamber of Commerce</td>
<td>W/M</td>
<td>07/01/19-06/30/22</td>
</tr>
<tr>
<td>Business</td>
<td>Tanenbaum, Cheryl Intracoastal Bank 1290 Palm Coast Pkwy, NW Palm Coast, FL 32137</td>
<td>Senior Vice President</td>
<td>Flagler Chamber of Commerce</td>
<td>W/F</td>
<td>07/01/19-06/30/22</td>
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</tbody>
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### Workforce Development Board of Flagler and Volusia Counties, Inc.

#### Region 11

**Local Workforce Development Board**

<table>
<thead>
<tr>
<th>WIOA Mandate</th>
<th>LWDB Member Name/Address</th>
<th>Qualifications</th>
<th>Nominating Organization</th>
<th>Demographic</th>
<th>Term of Appointment</th>
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<tbody>
<tr>
<td>Business</td>
<td>Sharples, D. Kent</td>
<td>President</td>
<td>Team Volusia</td>
<td>W/M</td>
<td>07/01/18-06/30/21</td>
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<tr>
<td></td>
<td>CEO Business Alliance</td>
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<tr>
<td></td>
<td>825 Ballough Road, Suite 420</td>
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<tr>
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<td>Daytona Beach, FL 32114</td>
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<tr>
<td>Business</td>
<td>Walker, Tyrone</td>
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<td>Daytona Chamber of Commerce</td>
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<td>Primerica</td>
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<td></td>
<td>129 Grande Belfly Way</td>
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<td>Giles, Bradley</td>
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<td>07/01/19-06/30/22</td>
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<tr>
<td></td>
<td>Giles Electric</td>
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<td></td>
<td>1700 S. Seagrave Street</td>
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<td></td>
<td>South Daytona, FL 32119</td>
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<td>Allen, Mary Jo</td>
<td>Executive</td>
<td>Daytona Chamber of Commerce</td>
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<tr>
<td></td>
<td>Halifax Health Hospice</td>
<td>Director</td>
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<td>3800 Woodbriar Trail</td>
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<td></td>
<td>Port Orange, FL 32129</td>
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<td>Local Elected Official/Community Based Organization-Community Service Block Grant/HUD Employment &amp; Training</td>
<td>Girtman, Barbara</td>
<td>County Council Member</td>
<td>Volusia County Council/Volusia County</td>
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<td>01/01/19-06/30/20</td>
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WORKFORCE DEVELOPMENT BOARD OF FLAGLER AND VOLUSIA COUNTIES, INC
Region 11
Local Workforce Development Board

<table>
<thead>
<tr>
<th>Community Based Organization</th>
<th>Vice President</th>
<th>Bethune Cookman University</th>
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<tr>
<td>Long, Aubrey</td>
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<td>Bethune Cookman University</td>
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<tr>
<td>640 Dr. Mary McLeod Bethune Blvd. Daytona Beach, Florida 32114</td>
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<tr>
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<tr>
<td>Madden, Bonnie</td>
<td>Advent Health Medical Group</td>
<td>61 Memorial Medical Parkway #3808 Palm Coast, FL 32164</td>
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<table>
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<tr>
<th>Business</th>
<th>Administrator</th>
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<tr>
<td>Bradley, Nancy</td>
<td>Daytona College LLC</td>
<td>425 S Nova Road Ormond Beach, FL 32174</td>
<td>W/F</td>
<td></td>
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</tbody>
</table>

10 – Mandated Seats
13 – Private Business Sector

May, 2019
SUBJECT: Appointment to the Northeast Florida Community Action Agency.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: The Northeast Florida Community Action Agency (NEFCAA) has a vacancy on their Board of Directors for the position of “Flagler County Public Sector”. According to NFCAA’s bylaws and the Community Service Block Grant (CSBG) Act, elected officials or their representative must make up at least one-third (1/3) of the agency’s Board. Joseph Mayer, Community Services Director filled this position beginning in 2014 and continued to do so until his retirement in 2019. The NFCAA has requested the BOCC appoint a representative to their Board. Joanne Hinkel’s position as Social Services Program Manager places her in a good position to have access to information about the myriad of social services available in Flagler County. Therefore, it is staff’s recommendation for Ms. Hinkel to fill this vacancy.

The purpose of the Northeast Florida Community Action Agency (NEFCAA) is:
1. To work with the three significant groups in Northeast Florida (low-income, public sector, and private sector) to seek out, identify and eliminate causes of poverty;
2. To make the entire community more responsive to the needs and interests of the low-income by mobilizing available resources and bringing about a greater institutional sensitivity;
3. To plan and develop a system of priorities among projects, activities, and areas as needed for the most efficient use of resources;
4. To participate in the development, planning, implementation and evaluation of programs to serve low-income communities.

FUNDING INFORMATION: None

DEPARTMENT CONTACT: Administration (386) 313-4001

RECOMMENDATION: Request the Board appoint of Ms. Joanne Hinkel, Flagler County Senior Services Program Manager, as Flagler County’s representative to the Northeast Florida Community Action Agency.

ATTACHMENTS:
1. Letter from Northeast Florida Community Action Agency
2. NEFCAA Board of Directors Roster
May 23, 2019

County Administrator Jerry Cameron
Flagler County
1769 East Moody Boulevard, Building 2
Bunnell, Florida 32110

Dear Mr. Cameron:

The Northeast Florida Community Action Agency (NFCAA) is a nonprofit agency that provides services to more than 18,000 low-income individuals annually. Our mission is to collaborate with community partners to stabilize vulnerable households and empower families in Northeast Florida to achieve self-sufficiency through education, employment, and advocacy.

According to NFCAA’s bylaws and the Community Services Block Grant (CSBG) Act, elected officials or their representative must make up at least one-third (1/3) of the agency’s Board. NFCAA would like to continue to extend a Board seat to the Flagler County.

Mr. Joseph Mayer was an asset by dedicating his time to help NFCAA accomplish its mission of combating poverty in Northeast Florida. However, his retirement has left a vacancy for Flagler County representation.

NFCAA needs your timely support in this matter and is hopeful that you can make your appointment by June 17, 2019 in order for the Agency to comply with its Bylaws and the CSBG mandate.

Our board meets at 4:00 p.m. on the last Thursday of every other month. Usually, each member is assigned to one of the board’s standing committees.

Please let me know if you require additional information or clarification by calling me at (904) 398-7472 extension 210 or email me at bmcnair@nfcaa.org. I look forward to hearing from you soon.

Sincerely,

Berneatha McNair
Executive Director

BKM/mw
<table>
<thead>
<tr>
<th>NAME / ADDRESS / PHONE</th>
<th>REPRESENTING</th>
<th>TERM</th>
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<tr>
<td>2. Campbell, Justin</td>
<td>Putnam County (Public Sector)</td>
<td>Jan 19 – Indefinite</td>
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<tr>
<td>3. Chong, Tanya</td>
<td>Flagler County (Low-Income Sector)</td>
<td>May 09 – May 19</td>
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<tr>
<td>4. Coney, Benjamin</td>
<td>St. Johns County (Private Sector)</td>
<td>Jan 17 – Jan 22</td>
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<tr>
<td>5. Daughtry, Wanda</td>
<td>Duval County (Low-Income Sector)</td>
<td>July 14 – July 19</td>
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<tr>
<td>6. Dillon, Tracy</td>
<td>St. Johns County (Public Sector)</td>
<td>Aug 16 - Indef</td>
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<tr>
<td>7. Elkins, Richard (Parliamentarian)</td>
<td>Clay County (Public Sector)</td>
<td>July 17 - Indef</td>
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<tr>
<td>9. Godfrey-Watson, Michele (Vice Chair)</td>
<td>Community First Credit Union (Private Sector)</td>
<td>May 11 – May 21</td>
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<tr>
<td>11. Hayle, Selena (Secretary)</td>
<td>Clay County (Low Income Sector)</td>
<td>Oct 16 – Oct 21</td>
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<tr>
<td>12. Jean-Bart, Leslie (Chair)</td>
<td>Terrell Hogan Law Firm (Private Sector)</td>
<td>Apr 14 – Apr 19</td>
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<tr>
<td>13. Jones, Marie</td>
<td>Baker County (Low-Income Sector)</td>
<td>Aug 09 – Aug 19</td>
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<tr>
<td>14. Newby, Samuel “Sam”</td>
<td>Duval County (Public Sector)</td>
<td>Sept 18 - Indef</td>
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<td>16. Patterson-O’Neal, Deloris</td>
<td>Duval County (Public Sector)</td>
<td>Feb 18 – Indef</td>
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<td>17. Pressley, Sheila</td>
<td>JEA (Private Sector)</td>
<td>Jan 15 – Jan 20</td>
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<tr>
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<td>Organization</td>
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<td>18.</td>
<td>Rogers, Hank</td>
<td>Duval County</td>
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<td>Session, Lakesha</td>
<td>Putnam County (Low-Income Sector)</td>
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<td>20.</td>
<td>Williams, Kara</td>
<td>Nassau County (Public Sector)</td>
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<td>Williams, Marcus</td>
<td>Island Doctors St. Johns County (Private Sector)</td>
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<td>22.</td>
<td>Woodard, Dr. Linda</td>
<td>LDW Group LLC Duval County (Private Sector)</td>
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<tr>
<td>23.</td>
<td>VACANT</td>
<td>Flagler County (Public Sector)</td>
</tr>
<tr>
<td>24.</td>
<td>VACANT</td>
<td>Nassau County (Low Income Sector)</td>
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</tbody>
</table>

**Please Note:** Officers were elected at Annual Board meeting January 31, 2019 -- Term expires January 30, 2020

*Updated May 2019*
SUBJECT: Renewal of the 2019-2021 Certificate of Public Convenience and Necessity (COPCN) for the City of Palm Coast.

DATE OF MEETING: June 17, 2019

OVERVIEW: As part of Chapter 401, Florida Statutes, and Florida Administrative Code, Rule 64-J-2.032, the Board of County Commissioners must issue a Certificate of Public Convenience and Necessity (COPCN) for every agency that provides pre-hospital emergency medical service. Since 2004, the City of Palm Coast has provided Emergency Medical Services/Advanced Life Support non-transport service under the authorizations provided in the COPCN approved by the Board. By law, this certificate is brought forward every two (2) years for renewal. The current COPCN was renewed by the Board in 2017 with an expiration date of September 30, 2019.

The City of Palm Coast has requested renewal of the COPCN from a period of October 1, 2019 to September 30, 2021. The renewal request was reviewed by the Flagler County Emergency Medical Services Advisory Council and approved at their May 13, 2019 meeting. Staff concurs with the Council’s approval and finds the ALS service provided by the City of Palm Coast to be an essential part of the overall pre-hospital care in Flagler County.

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Fire Rescue, Don Petito (386) 313-4255

RECOMMENDATIONS: Request the Board approve the renewal of the Certificate of Public Convenience and Necessity for the City of Palm Coast COPCN from October 1, 2019 to September 30, 2021.

ATTACHMENTS:
1. City of Palm Coast Renewal Request
2. Renewal COPCN for the City of Palm Coast
March 1, 2019

Chief Joe King
Flagler County Emergency Services
1769 E. Moody Blvd., Bldg. 3
Bunnell, FL 32110

Re: Certificate of Public Convenience and Necessity

Dear Chief Joe King:

Please accept this letter and accompanying updated personnel roster as our formal request for renewal of the Certificate of Public Convenience and Necessity (COPCN) issued by Flagler County to provide EMS Advanced Life Support (ALS), non-transport by the City of Palm Coast Fire Department.

Thank you for your assistance in this matter and if you require any further information, please do not hesitate to contact my office.

Sincerely,

[Signature]

G. Forte, CFO, MAPP

Enclosure

cc: Kristen McCabe-Kline, MD
<table>
<thead>
<tr>
<th>LAST NAME</th>
<th>FIRST NAME</th>
<th>CERTIFICATION TYPE</th>
<th>EVOC</th>
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<td>McBride</td>
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<td>Woolwine</td>
<td>Andrew</td>
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</tbody>
</table>

* Classes completed with passing grade, awaiting State Testing and Certification
** Currently enrolled in Paramedic Training
EMERGENCY MEDICAL SERVICES
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

WHEREAS, the City of Palm Coast Fire Rescue Department has applied for a Certificate of Public Convenience and Necessity to provide EMS Advanced Life Support Non-Transport service (ALS engines) to the citizens of Palm Coast; and

WHEREAS, the City of Palm Coast Fire Rescue Department has demonstrated to the EMS Advisory Board that there is a need for the EMS ALS non-transport (ALS engines) to operate in the City to provide additional ALS services to the citizens of Palm Coast; and

WHEREAS, the City of Palm Coast Fire Rescue Department has indicated it will comply with all the requirements of Chapter 401, Florida Statutes, and Chapter 19, Article VI, of the Flagler County Code, and Chapter 64J of the Florida Administrative Code.

NOW, THEREFORE, the Board of County Commissioners of Flagler County hereby issues a Certificate of Public Convenience and Necessity to the City of Palm Coast Fire Rescue Department effective October 1, 2019 through September 30, 2021 based on the City of Palm Coast Fire Rescue Department adhering to the conditions noted below:

1. Provide EMS ALS non-transport (ALS engines) service on a twenty-four hour basis for the City of Palm Coast and within Flagler County when dispatched by the E911 Public Safety Answering Point in accordance with the legal standards cited above.

2. The first on scene EMS provider will assume responsibility for patient care until such care is transferred to another EMS provider. Transfer of patient care from the non-transport EMS provider to the transport EMS provider will begin in an effective and efficient manner upon arrival of the transporting crew.

Donald T. O’Brien, Jr., Chair

APPROVED BY THE FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS this 17th day of June 2019.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: Florida Statutes, Chapter 336.025(5)(a) requires the County notify the Florida Department of Revenue of any revision to the rate of tax and distribution proportions for Local Gas Tax prior to July 1st of each year. The statute further provides for the methodology to be used for the distribution of local option fuel taxes to be established through an Interlocal Agreement between the County and the municipality representing a majority of the incorporated areas within the County, in this case, the City of Palm Coast.

An Interlocal Agreement reached between the City of Palm Coast and Flagler County on July 15, 2002 stipulates that the City provide the County with any revisions to its Road Inventory annually in order that such revisions can be incorporated into the distribution formula to be reported to the Florida Department of Revenue. Each municipality within Flagler County was contacted by letter and given the opportunity to update their road inventory data as appropriate. No additional lane miles were reported from the municipalities. The County’s unincorporated lane-mileage has been updated to include a portion of Aviation Drive and Seascape Dr., which were incorporated into the County’s inventory. Current population data (2018 Population estimates) was obtained from the Bureau of Economic and Business Research (BEBR) at the University of Florida.

The table below reflects the previous year’s information and most current available data:

<table>
<thead>
<tr>
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<td>City of Marineland</td>
<td>6</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0.33%</td>
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<tr>
<td>City of Beverly Beach</td>
<td>376</td>
<td>356</td>
<td>4.115</td>
<td>4.115</td>
<td>0.33%</td>
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<tr>
<td>City of Bunnell</td>
<td>2,927</td>
<td>3,056</td>
<td>58.94</td>
<td>58.94</td>
<td>2.84%</td>
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<tr>
<td>City of Flagler Beach</td>
<td>4,625</td>
<td>4,666</td>
<td>61.435</td>
<td>61.435</td>
<td>4.34%</td>
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<tr>
<td>City of Palm Coast</td>
<td>82,760</td>
<td>84,575</td>
<td>1,186.2</td>
<td>1186.2</td>
<td>78.67%</td>
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<tr>
<td>Unincorporated County</td>
<td>14,463</td>
<td>14,852</td>
<td>445.41</td>
<td>446.1</td>
<td>13.82%</td>
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<tr>
<td>TOTALS</td>
<td><strong>105,157</strong></td>
<td><strong>107,511</strong></td>
<td><strong>1,756.1</strong></td>
<td><strong>1756.79</strong></td>
<td><strong>100%</strong></td>
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</table>

The following table reflects a distribution formula based on a 50%-50% ratio of population and lane miles in accordance with the Interlocal Agreement.
### DISTRIBUTION TABLE

<table>
<thead>
<tr>
<th>JURISDICTION</th>
<th>Distribution proportion based on population (Percentage X 0.5)</th>
<th>Distribution proportion based on lane-miles (Percentage X 0.5)</th>
<th>TOTAL DISTRIBUTION (PERCENTAGE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Marineland</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>City of Beverly Beach</td>
<td>0.17</td>
<td>0.12</td>
<td>0.29%</td>
</tr>
<tr>
<td>City of Bunnell</td>
<td>1.42</td>
<td>1.68</td>
<td>3.1%</td>
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<tr>
<td>City of Flagler Beach</td>
<td>2.17</td>
<td>1.75</td>
<td>3.92%</td>
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<tr>
<td>City of Palm Coast</td>
<td>39.33</td>
<td>33.76</td>
<td>73.09%</td>
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<tr>
<td>Unincorporated County</td>
<td>6.91</td>
<td>12.69</td>
<td>19.6%</td>
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<tr>
<td><strong>TOTALS</strong></td>
<td><strong>50</strong></td>
<td><strong>50</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

### FUNDING INFORMATION:  
N/A

### DEPARTMENT CONTACT:  
Faith Alkhatib, P.E. County Engineer 313-4006

### RECOMMENDATION:  
Request the Board approve the Distribution Table as presented and authorize the County Engineer to forward this information to the Florida Department of Revenue.

### ATTACHMENTS:  
N/A
SUBJECT: Consideration of Award for Invitation to Bid 19-B-70EM to Multiple Vendors for Bulk Fuel Services Estimated at $1,500,000.00 Annually.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: Invitation to Bid (ITB) 19-B-70EM was issued by Volusia County Purchasing requesting bids from qualified contractors to supply bulk fuel as a consortium consisting of Volusia County, including VOTRAN; the Volusia County School Board; Cities of Daytona Beach, DeLand, Port Orange, South Daytona, New Smyrna Beach, and Ormond Beach; and, Flagler County. Flagler County has participated in this consortium since 2009 purchasing an average of $1 million in bulk fuel annually.

All pricing submitted was compared to six months of Oil Price Information Service (OPIS) data and a third-party pricing index that is a widely accepted fuel price benchmark for supply contracts and used by the county for the past fifteen years. The attached pricing consists of the cost markup per gallon.

Volusia County received six (6) responses and awarded contracts on May 7, 2019 to the three lowest responsive and responsible bidders, Mansfield Oil Company, Gainesville, Georgia; Petroleum Traders Corporation, Fort Wayne, Indiana; and Gentry Oil, Deland.

The contract term consists of an initial three-year period with the option of two (2) one-year renewals based upon mutual agreement. A contract award with three vendors provides the lowest overall pricing and allows multiple sourcing which becomes important during high demand, low supply, situations.

FUNDING INFORMATION: Bulk fuel is paid through the inventory account 001-0000-142.01-01 and departments are billed monthly based upon their fuel usage. Appropriations beyond the current fiscal year are subject to future board approval.

DEPARTMENT CONTACT: Purchasing, Kris Collora (386) 313-4062

RECOMMENDATIONS: Request the Board approve Bid Award 19-B-70EM to Mansfield Oil Company, Gainesville, Georgia; Petroleum Traders Corporation, Fort Wayne, Indiana; and Gentry Oil, Deland for Bulk Fuel Services Estimated at $1,500,000.00 Annually.

ATTACHMENTS:
1. Bid Tabulation
<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Mansfield Oil Company</th>
<th>Petroleum Traders Corp.</th>
<th>Indigo Energy Partners</th>
<th>Gentry Oil Company, LLC</th>
<th>Glover Oil Company, Inc</th>
<th>James River Solutions</th>
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<tbody>
<tr>
<td>1</td>
<td>Ultra Low Sulfur Diesel (10500+ gallons)</td>
<td>$0.0500</td>
<td>$0.2567</td>
<td>$0.0745</td>
<td>$0.0200</td>
<td>$0.0524</td>
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<td>2</td>
<td>Ultra Low Sulfur Diesel (7500 gallons)</td>
<td>$0.2567</td>
<td>$0.2000</td>
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<td>L-Diesel (10000+ gallons)</td>
<td>$0.0500</td>
<td>$0.2567</td>
<td>$0.2519</td>
<td>$0.1999</td>
<td>$0.0524</td>
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<td>4</td>
<td>C-10 Fuel, less than 8000 gallons</td>
<td>$0.0500</td>
<td>$0.2567</td>
<td>$0.0745</td>
<td>$0.0200</td>
<td>$0.0524</td>
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<tr>
<td>5</td>
<td>Gross No.2 Red-Dyed Fuel (Cut Road) (-1+ 7500 gallons)</td>
<td>$0.0524</td>
<td>$0.2567</td>
<td>$0.0745</td>
<td>$0.0200</td>
<td>$0.0524</td>
<td>$0.0564</td>
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<tr>
<td>6</td>
<td>Gross No.2 Red-Dyed Fuel (Cut Road) less than 7500 gallons</td>
<td>$0.0524</td>
<td>$0.2567</td>
<td>$0.0745</td>
<td>$0.0200</td>
<td>$0.0524</td>
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<td></td>
<td>TOTAL BASE BID</td>
<td>$1,230.75</td>
<td>$1,230.75</td>
<td>$1,230.75</td>
<td>$1,230.75</td>
<td>$1,230.75</td>
<td>$1,230.75</td>
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<tr>
<td>7</td>
<td>Any additional fee for bulk loads</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$25.00</td>
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<tr>
<td>8</td>
<td>Additional fee for &quot;above&quot; vs. &quot;below&quot; ground tanks</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$25.00</td>
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<td>9</td>
<td>Drop Charge for tank wagon delivery</td>
<td>$25.00</td>
<td>$25.00</td>
<td>$25.00</td>
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<td>$25.00</td>
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<td>TOTAL ADDITIONAL FEES</td>
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<td>$155.00</td>
<td>$155.00</td>
<td>$155.00</td>
<td>$155.00</td>
</tr>
</tbody>
</table>

Attachment 1

All bids accepted by the County of Volusia are subject to the County’s terms and conditions. Any and all additional terms and conditions submitted by the bidders are rejected and shall have no force and effect. Bids documents from the vendors listed here are the only bids received timely as of the opening date and time. All other bid documents submitted in response to this solicitation, if any, are hereby rejected as late.
SUBJECT: Adoption of a Flagler County Drone Policy to Govern the Use of Drones by Staff of Flagler County.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: The Board of County Commissioners directed staff to develop a drone program at its workshop on December 17, 2018. Staff developed a draft policy, but paused during the legislative session as several bills were pending that could have impacted the County’s policy. However, none of those bills passed, and the policy is ripe for adoption.

The use of drones will benefit residents and visitors to the County in a variety of contexts through more efficient use of County resources. Drones have a tremendous potential to improve services, and their use will only increase in the future. It is important to note the Drone Policy applies to the County’s use of drones and is not an ordinance regulating the public’s use of drones.

The policy will provide a framework for drone operations for all departments that fall under the Flagler County Board of County Commissioners. Each department that wishes to utilize drones will implement a set of Standard Operating Procedures (SOP) that fulfill the requirements set forth in this policy and by state and federal law. The SOP’s may include additional requirements beyond the minimum required by the policy, but may not remove or supersede any policy requirements. Departments that may utilize drones include Innovation Technology, Fire Rescue General Services, Emergency Management, Engineering, and Land Management. The policy also establishes a Drone Oversight Committee (DOC) composed of representatives from Innovation Technology, Fire Rescue, the County Attorney’s Office, and other participating departments as applicable. The Drone Policy requires the DOC to review the policy annually and recommend changes to the Board of County Commissioners if necessary.

A comprehensive list of drone uses is beyond the scope of this memo. However, as an example, the Department of Innovation Technology will be utilizing drones for GIS data collection, tower and county asset inspections, capturing videos and images for marketing, and assisting in disaster response and damage assessments. Flagler County Fire Rescue will be utilizing drones for search and rescue, fire/HAZMAT reconnaissance, and disaster response.

Each drone operator must be FAA certified. In order to ensure County drone operators are properly trained for mapping, HAZMAT, and search and rescue missions, Flagler County hosted UAS Technician I/II training in April which included members of the Department of Innovation Technology, Flagler County Fire Rescue, and drone program operators from surrounding counties.

Once this policy has been approved, the drone team will be submitting an application for a Certificate of Authorization (COA) with the FAA, which allows the program to operate with fewer FAA requirements.

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Innovation Technology, Jarrod Shupe and Fire Rescue, Don Petito

RECOMMENDATION: Request the Board approve the Flagler County Drone Policy.

ATTACHMENTS:
1. Flagler County Drone Policy
The following Drone Policy is hereby adopted by the Flagler County Board of County Commissioners and will apply to the use of drones, as defined herein, by all County employees and County contractors.

PURPOSE AND SCOPE

The County of Flagler is dedicated to embracing technologies that help improve its services while protecting the privacy and safety of its residents. The use of drones in the public interest is expected to benefit residents and visitors to the County through the more efficient use of County resources. This Drone Policy ("Policy") applies to all to persons acting under the auspices of the Flagler County Board of County Commissioners, including advisory boards, employees, contractors, consultants and volunteers. The term “drone” means an unmanned aircraft flown by a pilot via a ground control system, or autonomously through use of an on-board computer, communication links or other any additional equipment.

This Policy is subject to an annual evaluation period. Each year after adoption, a Drone Oversight Committee ("DOC"), composed of the Director of Innovation Technology or his/her designee, the Fire Rescue Chief or his/her designee, a representative from the County Attorney’s Office, and representatives of other participating departments, will review the use of drones by all individuals under this Policy and provide recommended policy revisions to the Board of County Commissioners, if necessary.

POLICY STATEMENT

This Policy requires each participating department to adopt Standard Operating Procedures ("SOPs") that reflect the requirements iterated in this document. Departments may add requirements to their drone SOPs beyond the minimum required by this Policy, but may not remove or supersede any requirement contained in this Policy, or use drones for any reason outside the “use cases” identified for each department infra. All department SOPs must be approved by the Drone Oversight Committee (DOC) before any authorized use.

The departmental SOPs must be reviewed and signed by all drone operators in participating departments prior to utilizing drones for County work. Engaging in the unauthorized use of drones or activities that are inconsistent with this Policy may subject an officer or employee to discipline, up to and including termination of employment or removal from office. Notwithstanding the foregoing, nothing in this Policy shall modify or reduce any due process rights provided pursuant to the officer or employee’s collective bargaining agreement or the County’s Personnel Policy.
AUTHORIZED USE CASES

The authorized use of drones is limited to the following Department use cases. Additional authorized use cases must be approved by the DOC.

<table>
<thead>
<tr>
<th>Department</th>
<th>Authorized Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Innovation Technology</td>
<td>- <em>Data Collection</em>: Feature collection for the county GIS Database.</td>
</tr>
<tr>
<td></td>
<td>- <em>Inspections</em>: Surveys and assessments of Flagler County properties and assets.</td>
</tr>
<tr>
<td></td>
<td>- <em>Marketing</em>: Capture video and still photographs.</td>
</tr>
<tr>
<td></td>
<td>- <em>Disaster Response</em>: Gather aerial imagery before and after a disaster event</td>
</tr>
<tr>
<td>Fire Rescue</td>
<td>- <em>Disaster Response</em>: Assessment and District Surveys.</td>
</tr>
<tr>
<td></td>
<td>- <em>Emergency Response</em>: Fire and/or HAZMAT Reconnaissance</td>
</tr>
<tr>
<td></td>
<td>- <em>Search &amp; Rescue</em>: Aerial or water borne drones.</td>
</tr>
<tr>
<td>General Services</td>
<td>- <em>Construction Management</em>: Inspection of project sites for contract and environmental compliance.</td>
</tr>
<tr>
<td></td>
<td>- <em>Environmental Monitoring &amp; Documentation</em>: Vegetation type and health, wildlife, streams/reservoirs.</td>
</tr>
<tr>
<td></td>
<td>- <em>Inspections</em>: Surveys and assessments of Flagler County properties and assets.</td>
</tr>
<tr>
<td>Emergency Management</td>
<td>- <em>Disaster Response &amp; Recover</em>: Aerial review of areas affected by disasters or emergencies.</td>
</tr>
<tr>
<td>Engineering</td>
<td>- <em>Construction Management</em>: Inspection of project sites for contract and environmental compliance.</td>
</tr>
<tr>
<td></td>
<td>- <em>Inspections</em>: Surveys and assessments of Flagler County properties and assets.</td>
</tr>
<tr>
<td>Land Management</td>
<td>- Assessments of the health and quality of resources on County lands.</td>
</tr>
<tr>
<td></td>
<td>- Evaluation of quantity of resources on County lands.</td>
</tr>
<tr>
<td></td>
<td>- Inspections during prescribed fire operations.</td>
</tr>
</tbody>
</table>

POLICY REQUIREMENTS

The privacy and safety of Flagler County residents, businesses, and visitors are the top priorities of this Policy. Department SOPs must be consistent with this Policy and must comply with all City, State, and Federal laws and regulations, and with all state and federal Constitutional guarantees. In particular, the registration, airman certification, and operation of drones must comply with 14 C.F.R. Part 107 or its successor.

*Equipment Specifications*: Each County drone must have a global positioning system (GPS). The software and/or firmware used to operate County drones must be up to date and maintained. Each County drone must have detailed flight logs and maintenance records.
**Safety** Drones must be operated in a safe manner. County drones should not be operated in a way that causes or is likely to cause personal injury or property damage. Drones may not have features (e.g., lights or coloring), and may not be used in a way that distracts drivers or other aircraft.

Drones that lose GPS signals should be set to hover in place. Additionally, drones that lose signals to their remote operator or drones that signal power is low should be set to return to home/origin.

**Training:** Drone operators must possess a current Remote Pilot Certificate from the FAA. Each pilot must demonstrate proficiency to the DOC.

**Notification:** Departments shall notify the public of intended drone operations at the site of operations through signage in readily viewable public areas. Department notifications shall include flight summary information and the type of data to be collected.

**Prohibited Zones:** Drone operations may not occur in controlled or restricted airspace without prior authorization from the FAA or the Air Traffic Control Tower.

**Waivers/Authorizations:** When operating under an FAA Part 107 Waiver, the Remote Pilot in Command (RPIC) is responsible for ensuring all waiver provisions are met. Once the County has acquired a Certificate of Authorization, it is the responsibility of the RPIC to determine which rules the individual drone operation will take place under.

**Flight Logs:** All County drone operators must upload flight information to flight logging software within 24 hours of mission completion, or lose the ability to participate in drone operations for Flagler County.

**Insurance:** The County shall obtain general commercial liability coverage for any drones purchased or leased drones prior to operation.

**QUESTIONS**

All questions regarding this Policy should first be directed to the effected employee's supervisor. If necessary, the supervisor may forward the question to the DOC, which shall address the matter as soon as practicable.

**DATE OF APPROVAL**

This Policy was adopted by the Board of County Commissioners on the 17th day of June, 2019.
SUBJECT: Consideration of the Ratification of Purchase Orders and Approval of 911 Expenditures.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: Staff is seeking approval to transfer necessary funding for the purchase and Ratification of 911 necessary items from the 911 Fund Reserves.

Staff applied for and received a grant in January 2019. We are allowed approximately $300,000 in fund balance at the end of FY 2019; therefore, we must spend approximately $183,000 by the end of this fiscal year. While most of this was anticipated, we did not want to allocate funding that we were not certain we would be receiving.

The ratification of purchase orders are in conformance with the purchasing policy.

- **PO 26701** – This purchase order was issued to Norment Security in the amount of $26,306 for a security camera system at the backup dispatch center at the Jail Administration Building at 1001 Justice Lane.

- **PO 26850** – This purchase order was issued to Garber Chevrolet Buick GMC Inc. in the amount of $37,553 for a 911 staff vehicle.

The following amounts are being appropriated with the included budget transfer.

- $19,650 for other 911 System technology and operating needs
- $80,000 for Recorder Upgrades

FUNDING INFORMATION: Funding from E-911 Fund Reserves in the amount of $163,956 will be allocated into various capital and operating accounts within accounts in 302-1722-529 with the approval of Budget Transfer 19-115. The remaining balance of reserves for Fund 302 will be $255,052.

DEPARTMENT CONTACT: Kris Collora, Purchasing Manager, (386) 313-4062
Jarrod Shupe, Chief Information Officer/911 Coordinator (386) 313-4281

RECOMMENDATIONS: Request the Board approve the ratification of Purchase Orders 26701 and 26850 totaling $63,859 and approve Budget Transfer 19-115 for 911 Expenditures.

ATTACHMENTS:
1. BTR 19-115
**EXPLANATION:**
Transfer funds for various 911 System upgrades as approved at the BOCC regular meeting on 06/17/19. Items included, but not limited to security system upgrades, staff vehicle, and other 911 equipment and operating needs.

<table>
<thead>
<tr>
<th>LINE NO.</th>
<th>FUND NO.</th>
<th>DEPT. NO.</th>
<th>SUB. NO.</th>
<th>ACCT NO.</th>
<th>PROJ NO.</th>
<th>AMOUNT</th>
<th>AVAILABLE WAS</th>
<th>WILL BE</th>
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**TOTAL**
$163,956.00 $163,956.00 $458,308.00 $458,308.00

Financial Service Director's APPROVAL  
DATE: 6/6/19

Administrator's APPROVAL  
DATE: 

Board Action @ Meeting APPROVAL  
DATE: 

POSTED BY: 
DATE POSTED: 
cc: 

R:\Budget Transfer\BTR19 - 115
SUBJECT: Consideration of Fiscal Year 2018-19 Budget Transfers from Reserves for the General Fund (001), County Transportation Trust Fund (102), Tourist Development Fund (110), Park Impact Fee Zone 4 (135) Planning and Zoning & Code Enforcement Fund (180), Building Department (181), E-911 Fund (302), Airport Fund (401), Solid Waste Fund (402), and Plantation Bay Utility Fund (407).

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: Transfer of funds from Reserves to appropriate for expenditures related to the Value Adjustment Board for Budget Transfer 19-114 (A).

Transfer of funds from Reserves to appropriate funding related to the annual leave redemption payouts, for various departments within the General Fund, as well as Special Revenue and Enterprise Funds. These items are reflected on Budget Transfers 19-116 through 19-124 (B-J).

Transfer of funds from Reserves to appropriate funding to purchase playground equipment from Bliss Products and Services, Inc. per Clay County RFP No. 18/19-2, at the Haw Creek Community Center, Hidden Trails Community Center, and the Pellicer Community Center on Budget Transfer 19-125 (K).

<table>
<thead>
<tr>
<th>BTR #</th>
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<th>Description</th>
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<td>Value Adjustment Board</td>
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<td>VAB related Invoices</td>
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<td>B 19-116</td>
<td>Various General Fund Depts.</td>
<td>$159,647</td>
<td>Annual Leave Redemption</td>
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<td>C 19-117</td>
<td>County Transportation Trust</td>
<td>$11,697</td>
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<td>D 19-118</td>
<td>Tourist Development</td>
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</tr>
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<td>E 19-119</td>
<td>Planning and Zoning/Code Enf.</td>
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<tr>
<td>F 19-120</td>
<td>Building</td>
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</tr>
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<td>G 19-121</td>
<td>E-911</td>
<td>$616</td>
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</tr>
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<td>H 19-122</td>
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<tr>
<td>I 19-123</td>
<td>Solid Waste</td>
<td>$960</td>
<td>Annual Leave Redemption</td>
</tr>
<tr>
<td>J 19-124</td>
<td>Plantation Bay Utility</td>
<td>$5,253</td>
<td>Annual Leave Redemption</td>
</tr>
<tr>
<td>K 19-125</td>
<td>Park Impact Fee Zone 4</td>
<td>$94,783</td>
<td>Playground Equipment for Haw Creek, Hidden Trails, and Pellicer Community Centers</td>
</tr>
</tbody>
</table>

DEPARTMENT CONTACT: Financial Services, Lorie Bailey-Brown (386) 313-4036

RECOMMENDATION: Request the Board approve Budget Transfer #19-114 and Budget Transfers #19-116 through #19-125 and approve the capital purchase of playground equipment.

ATTACHMENTS:
1. Budget Transfer 19-114
2. Budget Transfer 19-116
3. Budget Transfer 19-117
4. Budget Transfer 19-118
5. Budget Transfer 19-119
6. Budget Transfer 19-120
7. Budget Transfer 19-121
8. Budget Transfer 19-122
9. Budget Transfer 19-123
10. Budget Transfer 19-124
11. Budget Transfer 19-125
12. Playground Equipment Quotes
## Budget Transfer Request Form

**FUND:** General Fund  
**DEPARTMENT / DIVISION:** Reserves - Reserves  

**EXPLANATION:** Transfer and appropriate funds from Reserves to pay invoices related to the Value Adjustment Board.

<table>
<thead>
<tr>
<th>LINE NO.</th>
<th>FUND NO.</th>
<th>DEPT. NO.</th>
<th>SUB. NO.</th>
<th>ACCT NO.</th>
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</tbody>
</table>

**TOTAL**

|$3,000.00| $3,000.00| $264,618.00| $264,618.00|

Financial Service Director's APPROVAL:  
**DATE:** 06/14/19

Administrator's APPROVAL:  
**DATE:**

Board Action @ Meeting APPROVAL:  

POSTED BY:  
**DATE POSTED:**  
**cc:**
### Attachment 2

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS**  
**BUDGET TRANSFER REQUEST FORM**

**FUND:** General Fund  
**DEPARTMENT / DIVISION:** Reserves - Reserves  
**DATE:** 06/04/19  
**PREPARED BY:** BE

**EXPLANATION:** Transfer from reserves for annual leave redemption payouts, as approved by the BOCC on 06/17/19.

<table>
<thead>
<tr>
<th>LINE NO.</th>
<th>FUND NO.</th>
<th>DEPT. NO.</th>
<th>SUB. NO.</th>
<th>ACCT NO.</th>
<th>PROJ NO.</th>
<th>AMOUNT FROM (DR.)</th>
<th>AMOUNT TO (CR.)</th>
<th>AVAILABLE WAS</th>
<th>AVAILABLE WILL BE</th>
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**TOTAL**  
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$159,647.00  
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$11,971,528.00

Financial Service Director's APPROVAL:  
Administrator's APPROVAL:  
Board Action @ Meeting APPROVAL:  

POSTED BY:  
DATE POSTED:  
cc:
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Financial Service Director's APPROVAL: [Signature] DATE: 6/18/19

Administrator's APPROVAL: _______________ DATE: _______________

Board Action @ Meeting APPROVAL: _______________ DATE: _______________

POSTED BY: _______________ DATE POSTED: _______________ CC: _______________
**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS**
**BUDGET TRANSFER REQUEST FORM**

**FUND:**
Tourist Dev Tax-Promotion

**DEPARTMENT / DIVISION:**
Reserves - Reserves

**EXPLANATION:**
Transfer from reserves for annual leave redemption payouts, as approved by the BOCC on 06/17/19.

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Financial Service Director's APPROVAL: [Signature]
DATE: 07/16/19

Administrator's APPROVAL: ______________________
DATE: ______________________

Board Action @ Meeting APPROVAL: ______________________

POSTED BY: ______________________
DATE POSTED: ______________________
cc: ______________________

R:\Budget Transfer\BTR19 - 118
**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS**  
**BUDGET TRANSFER REQUEST FORM**  

**FUND:** Municipal Services Fund  
**DEPARTMENT / DIVISION:** Reserves - Reserves  

**EXPLANATION:** Transfer from reserves for annual leave redemption payouts, as approved by the BOCC on 06/17/19.

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Financial Service Director's APPROVAL: [Signature]  
DATE: 6/4/19

Administrator's APPROVAL: ___________________________  
DATE: ______________

Board Action @ Meeting APPROVAL: ___________________________  
DATE POSTED: ___________________________  
cc: ___________________________
### Budget Transfer Request Form

**Explaination:** Transfer from reserves for annual leave redemption payouts, as approved by the BOCC on 06/17/19.

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**Total:**

- **From (Dr.):** $9,078.00
- **To (Cr.):** $9,078.00
- **Was:** $519,629.00
- **Will Be:** $519,629.00

**Financial Service Director’s Approval:**

*Signature*

**Date:** 6/4/19

**Administrator's Approval:**

Date: 

**Board Action @ Meeting Approval:**

Date: 

**Posted By:**

Date Posted: 

**CC:**
FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
BUDGET TRANSFER REQUEST FORM

FUND: E-911 Equipment
DEPARTMENT / DIVISION: Reserves - Reserves

EXPLANATION: Transfer from reserves for annual leave redemption payouts, as approved by the BOCC on 06/17/19.

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**TOTAL** $616.00 $616.00 $533,016.00 $533,016.00

Financial Service Director's APPROVAL: 
DATE: 4/4/19

Administrator's APPROVAL: 
DATE: 

Board Action @ Meeting APPROVAL: 
DATE: 

POSTED BY: 
DATE POSTED: 
CC: 

R:\Budget Transfer\BTR19 - 121
**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS**
**BUDGET TRANSFER REQUEST FORM**

**FUND:**

**DEPARTMENT / DIVISION:**
- Airport
- Reserves - Reserves

**EXPLANATION:**
Transfer from reserves for annual leave redemption payouts, as approved by the BOCC on 06/17/19.

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Financial Service Director's APPROVAL: [Signature]

Administrator's APPROVAL: [Signature]

Board Action @ Meeting APPROVAL: [Signature]

POSTED BY: [Signature] DATE POSTED: [Date]

**DATE:** 06/04/19

**PAGE 1 OF 1**
**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS**

**BUDGET TRANSFER REQUEST FORM**

**FUND:** Solid Waste

**DEPARTMENT / DIVISION:** Reserves -Reserves

**EXPLANATION:** Transfer from reserves for annual leave redemption payouts, as approved by the BOCC on 06/17/19.

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**TOTAL**

$960.00  $960.00  $101,579.00  $101,579.00

Financial Service Director’s APPROVAL: __________________________

DATE: 6/19/19

Administrator’s APPROVAL: __________________________

DATE: __________________________

Board Action @ Meeting APPROVAL: __________________________

POSTED BY: __________________________  DATE POSTED: __________________________  cc: __________________________
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Financial Service Director's APPROVAL: ____________________ DATE: __________
Administrator's APPROVAL: ____________________ DATE: __________
Board Action @ Meeting APPROVAL: ____________________

POSTED BY: __________ DATE POSTED: __________ cc: __________
**EXPLANATION:**
Transfer funds from Park Impact Fee Zone 4 (Fund 135) Reserves to purchase playground equipment from Bliss Products and Services, Inc., per Clay County RFP No. 18/19-2 for the Haw Creek Community Center, Hidden Trails Community Center, and the Pellicer Community Center as approved at the 05/17/19 meeting.

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Financial Service Director's APPROVAL ______________________ DATE: ________________
Administrator's APPROVAL ______________________ DATE: ________________
Board Action @ Meeting APPROVAL ______________________
POSTED BY: ______________________ DATE POSTED: ______________________ cc: ______________________
Hawcreek CC Playground
Bliss Products and Services

This play equipment is recommended for children ages: 5-12
Minimum Area Required: 25'-6" x 36'-1"

Scale: 3/16" = 1'-0"
This drawing can be scaled only when in an 11" x 17" format

Drawn By: Tiffanie Brown
Date: 06/22/18
Guide Number: 645-117693A

Total Play Components
Elevated Play Components
Elevated Components Accessible by Ramp
Elevated Components Accessible by Transfer
Accessible Ground Level Components Shown
Different Types of Ground Level Components

User Capacity
7
0 Req.
5 Req.
0 Req.
5 Req.
2 Req.
2 Req.

Critical Fall Height
4'-6"

DURASTRUC

622 SQ FT
MINIMUM SURFACING

TOTAL OVERALL AREA
INSIDE TIMBERS
800 SQ FT
108 LINEAR FT

It is the manufacturer's opinion that the structure shown herein complies with current ADA standards concerning accessibility if used with proper accessible surfacing and together with other necessary ground level play equipment.

IMPORTANT: Never install play equipment over hard, unresilient surfaces such as asphalt, concrete, or compacted earth. It is the owner's responsibility to ensure the "minimum area required" contains an appropriate amount of resilient material to cushion accidental falls.
Bliss Products and Services, Inc
6831 S. Sweetwater Rd.
Lithia Springs, GA 30122
(800) 248-2547
(770) 920-1915 Fax

Quote #46333
Sales Rep: Paul Webber
paul@blissproducts.com
C: (225) 650-8877

Flagler County            Date 06-04-2019     Project Haw Creek Community Ctr

Bill To                      Ship To                  Contact
Flagler County              Flagler County           Frank C. Barbuti
1769 E Moody Blvd #5        1769 E Moody Blvd #5
Bunnell, FL, 32110          Bunnell, FL, 32110
T: (386) 313-4144           T: (386) 313-4120
F: (386) 313-4120

Approximate Ship Date     Ship Via     Terms
Net 30

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<th>Vendor</th>
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<th>Unit Price</th>
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Sub Total  $25,868.30
Freight  2,180.00
Tax  0.00
Grand Total  $28,048.30

Quote valid for 30 days unless otherwise noted.

Installation prices are based on truck access to the site and normal soil conditions. Any buried rock or debris may be cause for additional charges. Any Site preparation or demolition not specified above must be completed prior to installation of the equipment. Site restoration, unless otherwise noted, is not included. Please refer to your installation agreement for further details. Sales tax if applicable is not included. Sales tax exempt certificate will be required for exemption. All orders are subject to approval and acceptance by the manufacturer.
Kiddie Mover – Hidden Trails (ages 2-5)
Hidden Trails CC
2019 PPS Catalog
10-122138

This play equipment is recommended for children ages: 2-5

Minimum Area Required: 35'-3" x 38'-5"

Scale: 3/16" = 1'-0"
This drawing can be scaled only when in an 11" x 17" format

Drawn By: Chris Yates
Date: 12/11/18
Quote Number: 10-122138

Total Play Components
Elevated Play Components
Elevated Components Accessible by Ramp
Elevated Components Accessible by Transfer
Accessible Ground Level Components Shown
Different Types of Ground Level Components

1st 5
2nd 5
3rd 3
4th 0
5th 0
6th 0

User Capacity
0 Req. 0
5 Req. 3
9 Req. 2
2-4'

It is the manufacturer's opinion that the structure shown herein complies with current ADA standards concerning accessibility if used with proper accessible surfacing and together with other necessary ground level play equipment.

IMPORTANT: Never install play equipment over hard, unresilient surfaces such as asphalt, concrete, or compacted earth. It is the owner's responsibility to ensure the "minimum area required" contains an appropriate amount of resilient material to cushion accidental falls.
Flagler County

Bill To
Flagler County
1769 E Moody Blvd #5
Bunnell, FL, 32110
T: (386) 313-4144
F: (386) 313-4120

Ship To
Flagler County
1769 E Moody Blvd #5
Bunnell, FL, 32110

Contact
Frank C. Barbuti

Approximate Ship Date

Ship Via
Net 30

Terms

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Sub Total: $33,751.50
Freight: 1,987.00
Tax: 0.00

Taxable Subtotal: $35,738.50

Financing as low as $829.13 / month may be available pending credit approval.

Quote valid for 30 days unless otherwise noted.

Installation prices are based on truck access to the site and normal soil conditions. Any buried rock or debris may be cause for additional charges. Any Site preparation or demolition not specified above must be completed prior to installation of the equipment. Site restoration, unless otherwise noted, is not included. Please refer to your installation agreement for further details. Sales tax if applicable is not included. Sales tax exempt certificate will be required for exemption. All orders are subject to approval and acceptance by the manufacturer.

Complete Terms and Conditions can be found at https://blissproducts.com/terms-conditions/
It is the manufacturer's opinion that the structure shown herein complies with current ada standards concerning accessibility if used with proper accessible surfacing and together with other necessary ground level play equipment.

IMPORTANT: Never install play equipment over hard, unresilient surfaces such as asphalt, concrete, or compacted earth. It is the owner's responsibility to ensure the "minimum area required" contains an appropriate amount of resilient material to cushion accidental falls.
Bliss Products and Services, Inc
6831 S. Sweetwater Rd.
Lithia Springs, GA 30122
(800) 248-2547
(770) 920-1915 Fax

Quote #46334
Sales Rep: Paul Webber
paul@blissproducts.com
C: (225) 650-8877

Flagler County
Date 06-05-2019
Project Pellicer Community Ctr

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<td>Frank C. Barbuti</td>
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Approximate Ship Date:  Ship Via: Net 30

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Sub Total: $28,814.30
Freight: $2,180.00
Taxable Subtotal: $28,994.30
Tax: $0.00
Grand Total: $30,994.30

Financing as low as $719.07 / month may be available pending credit approval.

Installation prices are based on truck access to the site and normal soil conditions. Any buried rock or debris may be cause.
FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM # 7k

SUBJECT: Consideration of a Resolution to Authorize the Volusia County Housing Finance Authority to issue Multifamily Housing Revenue Bonds in an Amount Not to Exceed $9,000,000 and $22,000,000, in Connection with the Central Landings at Town Center Senior Living Development and Central Landings at Town Center Apartment Homes Development, Respectively, to be Constructed within the City of Palm Coast.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: The Volusia County Housing Finance Authority (Volusia HFA) is seeking approval to issue Multifamily Housing Revenue (Tax Exempt) Bonds in an aggregate principal amount not to exceed $9,500,000. The partial funds will be used to finance the construction of a multifamily residential rental project known as Brookhaven Development.

On April 1, 2019, the County Commission previously approved Resolution No. 2019-19, which allows the Volusia HFA to operate within the geographical boundaries of Flagler County for purposes of the Central Landings at Town Center Development. The project consists of two phases, a senior residential rental facility with 83 units and a family residential rental facility with 194 units, with a minimum of 40% (forty percent) of the units set aside for persons and families of low to moderate income, whose income does not exceed 60% (sixty percent) of the area median income. This action is being requested in accordance with Section 147 (f) of the Internal Revenue Code of 1986. The approval of the issuance of the bonds will not constitute a debt, liability, or obligation, or a pledge of its faith in credit, for Flagler County.

On April 23, 2019, the Housing Finance Authority of Volusia adopted resolution number 2019-01 and 2019-02 conveying its intent to proceed with the financing the multifamily residential project.

FUNDING INFORMATION: This item does not specifically impact the County’s General Fund, but will reduce the ability of the Volusia HFA to issue bonded debt for other projects within Flagler County, as long as these bonds remain outstanding.

DEPARTMENT CONTACT: Ralston Reodica, SHIP Administrator, 313-4037 ext. 5

RECOMMENDATIONS: Recommend the Board approve the resolution approving Volusia County Housing Finance Authority request to issue multifamily housing revenue bonds for Central Landings at Town Center Development within the City of Palm Coast, in an amount not to exceed $9,000,000 and $22,000,000.

ATTACHMENTS:
1. Resolution
2. Agenda Request From Housing Finance Authority of Volusia County
FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA REQUEST FORM

This form is to be used for issues that may warrant specific discussion and/or action at a Regular Commission meeting such as proclamations, resolutions and recognition of local individuals, civic group's, etc. or matters that may be of major concern to the entire community. Please submit this form to the County Administrator's office 20 days in advance of the requested scheduled Commission meeting date. Agenda requests will be reviewed by the County Administrator's office to determine if the issue requires or deserves Board discussion and/or action. If the agenda request is approved, requestors will be contacted regarding the date the item will be on the agenda. If you have any questions, please call 386/313-4001.

If your agenda request is not approved it should be noted that any person, group or organization is welcome to address the Commission regarding matters of interest related to Flagler County government. A thirty-minute time period for public comment is allocated at the beginning and the end of each regular Board meeting. Speakers are allowed up to three minutes to address the Commission on items not on the agenda. A sign-in sheet is provided at the entrance to the Board room for those who wish to address the Commission. This Request form is not required to be filled out for those who wish to address the Commission during the Public Comment portion of Commission meetings.

PLEASE PRINT

Applicant's Name: Sarah L. Metz, Esq.
Phone: (386)254-6875 Email: smetz@daytonalaw.com; rivey@daytonalaw.com
Address: PO BOX 15200, Daytona Beach, FL 32115

Group or Organization Name (if applicable): Housing Finance Authority of Volusia County

Subject Matter to be Discussed: Commission approval of the issuance of multifamily housing revenue bonds by the Housing Finance Authority of Volusia County for a project in Flagler County. Please see attached

Has the subject been discussed and/or reviewed by County Departments or Officials? No X Yes:

Name(s) of County Dept. or Officials issue discussed with Ralston Radioca

Specific questions and/or action desired from the Board of County Commissioners:

Will the Flagler Board of County Commissioners approve the issuance by the Volusia HFA of multifamily housing bonds for Central Landings at Town Center Senior Living in an amount not to exceed $9,000,000 and for Central Landings at Town Center Apartment Homes in an amount not to exceed $22,000,000? Please see attached letter and its enclosures.

Signature of Applicant Date 05/29/19

Presentations limited to 15 minutes per adopted Commission Meeting Procedures. All documents submitted become public record and must remain on file with the County Clerk.

"Fax completed form to 386-313-4101 20 days in advance of the scheduled meeting requested"

For Office Use Only

Signature of County Administrator Date

Assigned to Agenda: __/__/____ Revised 02/11/10
May 29, 2019

Via Email to ldance@flaglercounty.org

Ms. Luci Dance
Exec. Admin. Asst. to Flagler Board of County Commissioners
1769 E. Moody Blvd., Bldg #2
Bunnell, Florida 32110

Re: Housing Finance Authority of Volusia County Multifamily Housing Revenue Bonds

Dear Ms. Dance:

Atlantic Housing Partners L.L.L.P. ("Atlantic") contacted the Housing Finance Authority of Volusia County, Florida (the "Volusia HFA") regarding the Volusia HFA’s potential interest in providing bond financing for an affordable housing project that Atlantic wishes to develop in Flagler County, which is as follows:

- Central Landings at Town Center Senior Living, Series 2019, for the benefit of Central Landings 83, Ltd. or its affiliate in an amount not to exceed $9,000,000.00
- Central Landings at Town Center Apartment Homes, Series 2019, for the benefit of Central Landings Partners, Ltd. or its affiliate in an amount not to exceed $22,000,000.00.

Having one authority issue bonds for improvements constructed in another county is not an unusual situation. The statutory authority for this is found in Section 159.603 (1), Florida Statutes, and it defines “area of operation” for a housing finance authority to include “...the area within the territorial boundaries of the county for which the housing finance authority is created, and any area outside the territorial boundaries of such county if the governing body of the county within which such outside area is located approves. ...” The Flagler County Commission has already given “area of operation” authority to the Volusia HFA to proceed with the financing of the project.

After receiving the “area of operation” authority, the Volusia HFA expressed preliminary interest in considering bond financing for the Central Landings project at its meeting on April 23, 2019. Copies of the inducement resolutions are attached. TEFRA hearings have been conducted for the Central Landings project in both Volusia County on April 23, 2019 and Flagler County on May 16, 2019. Copies of the proofs of publication of notices of TEFRA hearings along with the minutes are enclosed herewith for attachment as Exhibit “A” to the proposed County...
SMITH BIGMAN BROCK

Commission Resolution. No oral or written objections or responses were received for any of the
TEFRA hearings.

The next step in the process is having the Flagler County Commission’s approval of the
issuance of the bonds under Section 147(f) of the Internal Revenue Code of 1986 as amended
(the “Code”). I have enclosed with this letter the proposed Resolution of the Board of County
Commissioners of Flagler County approving the issuance of the bonds along with their
attachments. Please advise if changes or additions are desired to the proposed resolutions and/or
the indemnity agreements attached to them.

I am requesting that this matter be placed on the Commission’s agenda for consideration
at its June 17, 2019 meeting as the timing for bond allocation requires the approval prior to the
end of June. Please advise if there is anything further needed from me at this time. Thank you
for your help, courtesy, and cooperation.

Sincerely,

Sarah L. Metz

SLM/

Enclosures as stated.

Cc: Mr. Ralston Radioca, w/encls. via email only
    Ms. Lorie Bailey-Brown, w/encls. via email only
    Mr. Robert E. Reid, w/encls. via email only
    Mr. Jay Brock, w/encls. via email only
    Mr. Scott Culp, w/encls. via email only
A RESOLUTION OF THE HOUSING FINANCE AUTHORITY OF VOLUSIA COUNTY EXPRESSING ITS INTENT TO PROCEED WITH THE FINANCING OF A MULTIFAMILY RESIDENTIAL RENTAL HOUSING PROJECT LOCATED IN FLAGLER COUNTY, FLORIDA THROUGH THE ISSUANCE OF ITS NOT TO EXCEED $9,000,000 MULTIFAMILY HOUSING REVENUE BONDS (CENTRAL LANDINGS AT TOWN CENTER SENIOR LIVING), SERIES 2019, FOR THE BENEFIT OF CENTRAL LANDINGS 83, LTD. OR ITS AFFILIATE; APPROVING AND AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT; AUTHORIZING THE SCHEDULING OF A PUBLIC HEARING ON THE FINANCING; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Part IV, Chapter 159, Florida Statutes, authorizes the creation of Housing Finance Authorities within the State of Florida with the purpose of issuing revenue bonds to assist in alleviating a shortage of housing available at prices or rentals which many persons and families can afford; and

WHEREAS, Sections 159.603 Florida Statutes, authorizes a Board of County Commissioners of a county other than the county which created a housing finance authority, to approve the operation of a Housing Finance Authority of another county within the territorial boundaries of such county; and

WHEREAS, the Board of County Commissioners of Flagler County, Florida, by action taken April 1, 2019, granted authority to the Housing Finance Authority of Volusia County, Florida (the "Authority") to issue revenue bonds to finance a multifamily residential rental facility located within Flagler County pursuant to Section 159.603(1), Florida Statutes; and

WHEREAS, the Authority has determined that there exists a shortage of safe and sanitary housing for persons and families of low to moderate income, within Flagler County; and

WHEREAS, such shortage will be partially alleviated by the addition by a private owner of a low to moderate income housing development to be known as Central Landings at Town Center Senior Living and consisting of 83 units located in Palm Coast, Flagler County, Florida, with a minimum of 40% of such units to be occupied by persons of low to moderate income (the "Project"), to be owned by Central Landings 83, Ltd., a Florida limited partnership (the "Owner"); and

WHEREAS, in order to finance the cost of acquisition, construction and equipping of the Project, the Authority intends to issue its Multifamily Housing Revenue Bonds for the benefit of the Owner in an amount currently estimated not to exceed $9,000,000 in one or more series (collectively, the "Bonds") and to enter into a Loan or Financing Agreement, a Trust Indenture, a Land Use Restriction Agreement, an Arbitrage Rebate Agreement, various guarantees and monitoring agreements and other necessary documents with respect to the Project, and
WHEREAS, in order to issue the Bonds it will be necessary to conduct a public hearing and obtain approval by the Board of County Commissioners of Flagler County, Florida and the County Council of Volusia County, Florida in accordance with Section 147(f) of the Internal Revenue Code of 1986; and

WHEREAS, in order to set forth the agreement between the Authority and the Owner regarding the issuance of the Bonds by the Authority, the Authority desires to approve and to thereafter execute and deliver a Memorandum of Agreement with the Owner.

NOW, THEREFORE, BE IT RESOLVED by the members of the Housing Finance Authority of Volusia County, Florida, a lawful quorum of which is duly assembled, as follows:

SECTION 1. RECITALS. The foregoing recitals set forth above are hereby incorporated into the Resolution as if fully set forth herein.

SECTION 2. Complete Application. The Authority acknowledges receipt of an amended application for issuance of bonds from the Owner on March 22, 2019, and hereby determines that the application is complete as of its date or receipt and approves said application.

SECTION 3. Declaration of Official Intent. The Authority hereby expresses its interest in approving at a later date, by appropriate resolution, the financing of the Project through the issuance of its Bonds and the execution of the necessary documents, including a Trust Indenture, Loan or Financing Agreement, Land Use Restriction Agreement, Arbitrage Rebate Agreement and various guaranty and monitoring agreements. The Owner is hereby authorized to incur expenditures on the costs of the Project, which expenditures are to be reimbursed to the Owner from the proceeds of the Bonds upon their issuance. This Resolution shall constitute a declaration of "official intent" by the Authority toward the issuance of the Bonds, within the meaning of Treasury Regulation Section 1.150-2.

SECTION 4. Good Faith Deposit. As a condition to proceeding with the issuance of the Bonds, the Owner is hereby required to deposit with the Authority a sum equal to one-half of one percent (.5%) of the amount of Bond Volume allocation requested by the Borrower for the Bonds to be issued (the "Good Faith Deposit") at the time such Bond Volume allocation request is made by the Borrower, which shall be held by the Authority until the first to occur of the closing on the Bonds or the abandonment of the financing of the Project by the Owner. The Good Faith Deposit shall be used by the Authority to pay the costs of advertising and conducting the required public hearing(s) as hereinafter authorized, and the balance shall be held by the Authority and applied, at the closing of the Bonds to pay all or any portion of the costs of issuance of each of the Bonds, or upon abandonment of the financing to reimburse any expenses of the Authority, the fees and expenses of the Authority's Counsel and Bond Counsel, and to pay other related expenses, including but not limited to, official statement printing costs and credit rating agencies fees. The Good Faith Deposit shall be delivered to the Authority no later than five (5) days following the adoption of this Resolution. In the event the Authority is unable to obtain an allocation of bond volume cap for the Bonds in an amount which, in the opinion of the Authority's Bond Counsel,
Underwriter and the Owner, is not sufficient to finance the proposed Project, and the Owner elects to abandon the request for issuance of bonds by the Authority, the Good Faith Deposit, less expenses of the Authority (including expenses of its counsel and Bond Counsel), will be returned to the Owner.

SECTION 5. Memorandum of Agreement. In order to assure the location of and to induce the Owner to locate the Project in the boundaries of Flagler County, with the resulting public benefits which flow therefrom, and to more effectively serve the purposes of the Act, the proposed Memorandum of Agreement to be made between the Authority and the Owner, in the form attached hereto as Exhibit A. The Chairman or the Vice-Chairman of the Authority is hereby authorized and directed to execute the Memorandum of Agreement in the name of and on behalf of the Authority, and the Secretary or an Assistant Secretary of the Authority is hereby authorized and directed to attest the same and to affix thereto the official seal of the Authority, and the Chairman or Vice-Chairman is hereby authorized to deliver the Memorandum of Agreement to the Owner. Such officers and all other officers of the Authority are hereby authorized to execute and deliver such further agreements, instruments and documents and to take such further action as may be necessary and desirable to effectuate and carry out the intent and purposes of the Memorandum of Agreement, when executed and delivered by the Authority and Owner.

SECTION 6. Public Hearing Ratified and Authorized; Request for Approval. The Authority hereby ratifies and confirms that the Authority’s Counsel is authorized to schedule and conduct on behalf of the Authority the public hearing regarding the issuance of the Bonds as required by Section 147(f) of the Code in Flagler County and Volusia County, and to make a report to the Board of County Commissioners of Flagler County and the County Council of Volusia County of the public hearing. The Board of County Commissioners of Flagler County and the County Council of Volusia County are hereby respectfully requested to approve the issuance of the Bonds by the Authority to finance the Project for purposes of Section 147(f) of the Code.

SECTION 7. Scope of Approval. It is expressly stated and agreed that the adoption of this Resolution is not a guaranty, express or implied, that the Authority shall approve the closing and issue the Bonds for the Project. The Owner shall hold the Authority and its past, present and future members, officers, staff, attorneys, financial advisors and employees harmless from any liability or claim based upon the failure of the Authority to close the transaction and issue the Bonds or any other cause of action arising from the adoption of this Resolution, the processing of the financing for the Project, or the issuance of the Bonds.

SECTION 8. Credit Underwriter. Seltzer Management Group is hereby designated and appointed by the Authority to serve as the credit underwriter for the Bonds on behalf of the Authority.

SECTION 9. Repealing Clause. All resolutions and orders or parts thereof, of the Authority, in conflict herewith are, to the extent of such conflict, hereby modified to the extent of such conflict.
SECTION 10.  Compliance with Open Meeting Laws. It is found and determined that all formal actions of this Authority concerning and relating to the adoption of this Resolution were taken in an open meeting of the members of this Authority and that all deliberations of the members of this Authority and of its committees, if any, which resulted in such formal action were taken in meetings open to the public, in full compliance with all legal requirements.

SECTION 11.  Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED this 23rd day of April, 2019.

(SEAL)

HOUSING FINANCE AUTHORITY OF VOLUSIA COUNTY, FLORIDA

(ATTEST)

By:

Name: Wilbur C. "King" Pickett
Title: Chairman

Secretary
EXHIBIT A

MEMORANDUM OF AGREEMENT
MEMORANDUM OF AGREEMENT

This MEMORANDUM OF AGREEMENT, dated as of the 23rd day of April, 2019, between the HOUSING FINANCE AUTHORITY OF VOLUSIA COUNTY, FLORIDA (the "Authority") and CENTRAL LANDINGS 83, LTD., a Florida limited partnership, duly organized and existing under the laws of the State of Florida (the "Owner").

SECTION 1. The matters of mutual inducement and reliance which resulted in the execution of this Memorandum of Agreement are as follows:

(a) The Authority is authorized and empowered by Chapter 159, Part IV, Florida Statutes, as amended (the "Act"), to provide for the issuance of and to issue and sell its revenue bonds for the purpose of paying all or any part of the cost of any "affordable housing project" as defined in the Act.

(b) In order to improve the availability of affordable housing in Flagler County, Florida (the "County"), it is desirable that the Authority issue and sell its Multifamily Housing Revenue Bonds (Central Landings at Town Center Senior Living), Series 2019, in the aggregate principal amount of not to exceed $9,000,000 in one or more series at one or more times (the "Bonds"); provided, however, that the Authority may consider at a subsequent date an additional principal amount of taxable bonds.

(c) The Authority intends to use the proceeds thereof, to the extent of such proceeds, as follows: (i) to pay all or any part of the cost of issuance of the Bonds, (ii) to pay all or any part of the cost of acquiring, constructing and equipping a multifamily residential rental facility and facilities directly related or ancillary thereto to be known as Central Landings at Town Center Senior Living (the "Project") on behalf of the Owner, and (iii) to pay any other "cost" (as defined in the Act) of the Project.

(d) The Authority intends to finance the Project for the Owner by a loan of the proceeds of the sale of its Bonds, such loan to be payable by the Owner in installments sufficient to pay the principal of, premium (if any), interest and costs due on the Bonds when and as the same become due.

(e) The Owner has requested that the Authority enter into this Memorandum of Agreement for the purpose of declaring the Authority's intention to provide financing to pay a portion of the cost of the Project.

(f) The Authority, by resolution duly passed and adopted, has made certain findings and determinations and has approved and authorized the execution and delivery of this Memorandum of Agreement.

(g) The Owner represents that Bond proceeds will not be used to finance any costs for the Project incurred prior to the date that is 60 days prior to the date on which
the Authority first declared its "official intent" to issue its revenue bonds to finance the Project as described in Treasury Regulation Section 1.150-2, except to the extent allowed by federal tax law.

SECTION 2. If purchase arrangements satisfactory to the Authority and the Owner can be made by the Owner and its agents and the conditions of the Authority are satisfied, the Authority will authorize the issuance and sale of the Bonds, and will issue and sell the Bonds to such purchaser or purchasers of the Bonds, all upon such terms and conditions as shall be approved by the Authority and the Authority and authorized by law and in accordance with the policies and procedures of the Authority. The Bonds will be payable solely from the revenues and proceeds derived by the Authority from payments by the Owner derived from the operation, leasing or sale of the Project, and will not constitute a debt, liability or obligation of the Authority, the County, Volusia County, Florida or of the State or of any other political subdivision thereof. The Authority shall not be obligated to pay the same nor interest, premium (if any) or costs thereon except from the revenues and proceeds pledged therefor, and neither the faith and credit nor the taxing power of the County, Volusia County, Florida or of the State or of any other political subdivision thereof will be pledged to the payment of the principal of, premium (if any), interest or costs due pursuant to or under such Bonds.

From the date hereof, until the sale of the Bonds, the Owner will, within ten (10) days after its occurrence, notify the Authority of any material change, whether or not adverse, in the business, operations or financial condition of the Owner. In the event the Authority shall, at any time prior to sale of the Bonds, determine in its sole discretion that there has been a material adverse change in the business, operations or financial based upon financial statements or notices provided by the Owner in accordance herewith, the obligation of the Authority to issue and sell the Bonds shall, at the option of the Authority, be terminated.

SECTION 3. The Authority will, at the proper time, and subject in all respects to the prior advice, consent and approval of the Owner, submit applications, adopt such proceedings and authorize the execution of such documents as may be necessary and advisable for the authorization, sale and issuance of the Bonds and the construction and equipping of the Project, all as shall be authorized by law and mutually satisfactory to the Authority and the Owner.

The Authority reserves the right to determine, in its sole discretion, the amount of bond volume allocation to apply for on behalf of the Owner, which amount shall not exceed $9,000,000. The Owner agrees to fully cooperate with the Authority in its bond volume application needs and agrees to take such steps as may be requested by the Authority in the timing of the issuance of the Bonds.

SECTION 4. The Bonds are anticipated to be privately placed with a financial institution, currently anticipated to be BankUnited, and issued as a single Bond equal to the aggregate principal amount of Bonds issued, shall bear interest at such rate or rates, shall be payable at such times and places, shall be in such forms, shall be sold in such manner and at such time or times, shall have such provisions for redemption, shall be executed, and shall be secured,
all as shall be authorized by the Act and all on terms mutually satisfactory to the Authority and the Owner.

SECTION 5. The Authority will use and apply the proceeds of the issuance and sale of the Bonds, or cause such proceeds to be used and applied, to the extent of such proceeds, to pay the cost of the Project, and will loan such Bond proceeds to the Owner for the Project pursuant to a financing agreement requiring the Owner to make payment for the account of the Authority in installments sufficient to pay all of the interest, principal, redemption premiums (if any) and other costs due under and pursuant to the Bonds when and as the same become due and payable, to operate, repair and maintain the Project at the Owner's own expense, to pay all other costs incurred by the Authority in connection with the financing of the acquisition, rehabilitation, expansion, equipping and administration of the Project which are not paid out of the Bond proceeds or otherwise for so long as any of the Bonds remain outstanding, and for the conveyance to the Owner of all rights, title and interest of the Authority in and to the Project when all of the obligations of the Owner under the financing agreement have been performed and satisfied.

SECTION 6. The Owner hereby acknowledges and accepts that it shall be solely responsible for the construction and equipping of the Project, it being understood and agreed that the Owner shall provide all services incident to the construction and equipping of the Project (including, without limitation, the preparation of plans, specifications and contract documents, the award of contracts, the inspection and supervision of work performed, the employment of engineers, architects, building and other contractors) and that the Owner shall pay all costs of the Project, subject to reimbursement by the Authority upon the issuance and sale of the Bonds of costs of the Project as permitted by applicable State law and federal tax law, and the use and application of the proceeds thereof as provided above. The Authority shall have no responsibility for the provision of the aforesaid services. The Owner agrees that to the extent that the proceeds derived from the sale of the Bonds are not sufficient to complete the Project, the Owner, as the owner of the Project, will be responsible for supplying all additional funds which are necessary for the completion of the Project. So long as this Memorandum of Agreement is in effect all risk of loss to the Project will be borne by the Owner.

SECTION 7. At or prior to the time of issuance and sale of the Bonds, the Authority will enter into a trust indenture or other similar funding security arrangement with a corporate trustee or fiscal agent (the "Trustee") to secure the Bonds, whereby the Authority's interest in the Project, the financing agreement with the Owner, and all fees, rents, charges, proceeds from the operation of the Project, and other funds and revenues in respect of the Project, subject to certain rights reserved by the Authority, will be pledged and assigned to the Trustee, and held by the Trustee in trust, for the benefit of the holders, from time to time, of the Bonds. In addition, the Owner hereby agrees, on behalf of itself and other guarantors to be designated by subsequent resolution of the Authority, that they will execute and deliver such guarantees and monitoring agreements as are customarily required by the rules, policies and practices of the Authority.

SECTION 8. At or prior to the time of issuance and sale of the Bonds, the following conditions precedent shall have been satisfied:
(a) The Owner shall have satisfactorily completed all procedures established by the Authority for the review and approval of multifamily housing revenue bond issues including, without limitations, the delivery of a credit underwriting report acceptable to the Authority and the satisfaction of all conditions stated therein, and has provided for the payment of all costs of issuance associated with the issuance of the Bonds, including, but not limited to, the fees and expenses of the Authority, its counsel, and Bond Counsel, fees and expenses of the trustee, credit underwriting fees, credit enhancement fees, rating fees, printing costs and any underwriting fees and expenses.

(b) The Authority shall have duly passed and adopted resolutions making all findings required by law and authorizing the issuance and sale of the Bonds and the execution and delivery of the financing agreement, the trust indenture and such other agreements, instruments and documents as may be required to be specifically authorized. It is an express condition of this Memorandum of Agreement that the Bonds be sold only in the manner approved by the Authority.

(c) The Owner shall have authorized the execution, delivery and performance of the financing agreement, and approved the trust indenture and the issuance and sale of the Bonds, and authorized or approved such other agreements, instruments and documents for which specific authorization or approval may be required.

(d) The Owner shall have provided a satisfactory opinion of its counsel with respect to the due authorization, execution and delivery of the financing agreement, and related agreements, instruments and documents, their legality, validity, binding effect and enforceability in accordance with their respective terms, and the absence of any violation of law, rule, regulation, judgment, decree or order of any court or other agency of government and agreements, indentures or other instruments to which the Owner is a party or by which it or any of its property, is or may be bound and to such other matters as may be reasonably requested.

(e) The Owner and the Authority shall have executed and delivered such non-arbitrage certificates and representations, as may be required to comply with Section 148 of the Internal Revenue Code of 1986, as amended, or any similar successor provisions and the regulations, rulings and interpretative court decisions thereunder.

(f) Bryant Miller Olive P.A., as Bond Counsel, shall have delivered its opinion with respect to the validity of the Bonds, and to the income tax status of the interest on the Bonds.

(g) The Owner shall have provided such other or additional representations, warranties, covenants, agreements, certificates, financial statements, and other proofs as may be required by the Authority, its counsel or Bryant Miller Olive P.A., as Bond Counsel.
(h) There shall have been obtained confirmation of an allocation from the Division of Bond Finance of the State of Florida or any successor thereto for issuance of the Bonds to finance the Project.

SECTION 9. In the event that the Bonds are not issued and sold and the transactions contemplated hereby are not closed within the time limit permitted by the confirmation of an allocation (referred to in 8(h) above) for any reason whatsoever and whether or not as a result of any failure to find one or more purchasers for the Bonds, any default or failure of performance by the Authority, the inability of the Authority to issue and sell the Bonds or the failure or inability of the Authority and the Owner to agree to the terms and conditions of the agreements, instruments and other documents provided for herein or contemplated hereby, the Owner agrees unless waived in the sole discretion of the Authority that:

(a) The Owner will (i) pay all its costs and expenses, including any fees due any attorneys, financial agents or others employed by the Owner, (ii) pay the reasonable fees and expenses of Bond Counsel and the credit underwriter, and (iii) reimburse the Authority for all reasonable out-of-pocket costs and expenses, including reasonable fees and expenses of the Authority's counsel which the Authority may have incurred in connection with or contemplated by this Memorandum of Agreement.

(b) The Owner will indemnify and hold the Authority, and the Authority's members, officers, attorneys, financial advisors, underwriters, employees and agents, harmless against any liabilities, allegations or claims of loss or damage (including attorneys' fees and expenses) pertaining to the Project, the Bonds, or any transaction contemplated hereunder, or arising out of or predicated upon this Memorandum of Agreement, any action or non-action taken or omitted in reliance upon this Memorandum of Agreement, or any default or failure of performance hereunder.

SECTION 10. No covenant or agreement contained in this Memorandum of Agreement or the Bonds, the trust indenture, the financing agreement, or in any other instrument relating to the Bonds or the Project, shall be deemed to be a covenant or agreement or any member, officer, employee or agent of the Authority in an individual capacity, and neither the members or any other officer of the Authority executing the Bonds or any such agreements or instruments shall be liable personally thereon or be subject to any personal liability or accountability by reason thereof.

[Remainder of page left intentionally blank]
IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement and affixed their respective seals, as of the date first written above.

HOUSING FINANCE AUTHORITY OF VOLUSIA COUNTY, FLORIDA

(SEAL)

By: [Signature]
Chairman

ATTEST:

[Signature]
Secretary

CENTRAL LANDINGS 83, LTD.,
a Florida limited partnership

By: Southern Affordable Services, Inc., a Florida not for profit corporation, its General Partner

[Signature]

By: Jay P. Brock
Executive Vice President
A RESOLUTION OF THE HOUSING FINANCE AUTHORITY OF VOLUSIA COUNTY EXPRESSING ITS INTENT TO PROCEED WITH THE FINANCING OF A MULTIFAMILY RESIDENTIAL RENTAL HOUSING PROJECT LOCATED IN FLAGLER COUNTY, FLORIDA THROUGH THE ISSUANCE OF ITS NOT TO EXCEED $22,000,000 MULTIFAMILY HOUSING REVENUE BONDS (CENTRAL LANDINGS AT TOWN CENTER APARTMENT HOMES), SERIES 2019, FOR THE BENEFIT OF CENTRAL LANDINGS PARTNERS, LTD. OR ITS AFFILIATE; APPROVING AND AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT; AUTHORIZING THE SCHEDULING OF A PUBLIC HEARING ON THE FINANCING; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Part IV, Chapter 159, Florida Statutes, authorizes the creation of Housing Finance Authorities within the State of Florida with the purpose of issuing revenue bonds to assist in alleviating a shortage of housing available at prices or rentals which many persons and families can afford; and

WHEREAS, Sections 159.603 Florida Statutes, authorizes a Board of County Commissioners of a county other than the county which created a housing finance authority, to approve the operation of a Housing Finance Authority of another county within the territorial boundaries of such county; and

WHEREAS, the Board of County Commissioners of Flagler County, Florida, by action taken April 1, 2019, granted authority to the Housing Finance Authority of Volusia County, Florida (the "Authority") to issue revenue bonds to finance a multifamily residential rental facility located within Flagler County pursuant to Section 159.603(1), Florida Statutes; and

WHEREAS, the Authority has determined that there exists a shortage of safe and sanitary housing for persons and families of low to moderate income, within Flagler County; and

WHEREAS, such shortage will be partially alleviated by the addition by a private owner of a low to moderate income housing development to be known as Central Landings at Town Center Apartment Homes and consisting of up to 194 units located in Palm Coast, Flagler County, Florida, with a minimum of 40% of such units to be occupied by persons of low to moderate income (the "Project"), to be owned by Central Landings Partners, Ltd., a Florida limited partnership (the "Owner"); and

WHEREAS, in order to finance the cost of acquisition, construction and equipping of the Project, the Authority intends to issue its Multifamily Housing Revenue Bonds for the benefit of the Owner in an aggregate amount currently estimated not to exceed $22,000,000 in one or more series (collectively, the "Bonds") and to enter into a Loan or Financing Agreement, a Trust Indenture, a Land Use Restriction Agreement, an Arbitrage Rebate Agreement, various
guarantees and monitoring agreements and other necessary documents with respect to the Project, and

WHEREAS, in order to issue the Bonds it will be necessary to conduct a public hearing and obtain approval by the Board of County Commissioners of Flagler County, Florida and the County Council of Volusia County, Florida in accordance with Section 147(f) of the Internal Revenue Code of 1986; and

WHEREAS, in order to set forth the agreement between the Authority and the Owner regarding the issuance of the Bonds by the Authority, the Authority desires to approve and to thereafter execute and deliver a Memorandum of Agreement with the Owner.

NOW, THEREFORE, BE IT RESOLVED by the members of the Housing Finance Authority of Volusia County, Florida, a lawful quorum of which is duly assembled, as follows:

SECTION 1. RECITALS. The foregoing recitals set forth above are hereby incorporated into the Resolution as if fully set forth herein.

SECTION 2. Complete Application. The Authority acknowledges receipt of an amended application for issuance of bonds from the Owner on March 22, 2019, and hereby determines that the application is complete as of its date or receipt and approves said application.

SECTION 3. Declaration of Official Intent. The Authority hereby expresses its interest in approving at a later date, by appropriate resolution, the financing of the Project through the issuance of its Bonds and the execution of the necessary documents, including a Trust Indenture, Loan or Financing Agreement, Land Use Restriction Agreement, Arbitrage Rebate Agreement and various guaranty and monitoring agreements. The Owner is hereby authorized to incur expenditures on the costs of the Project, which expenditures are to be reimbursed to the Owner from the proceeds of the Bonds upon their issuance. This Resolution shall constitute a declaration of "official intent" by the Authority toward the issuance of the Bonds, within the meaning of Treasury Regulation Section 1.150-2.

SECTION 4. Good Faith Deposit. As a condition to proceeding with the issuance of the Bonds, the Owner is hereby required to deposit with the Authority a sum equal to one-half of one percent (.5%) of the amount of Bond Volume allocation requested by the Borrower for the Bonds to be issued (the “Good Faith Deposit”) at the time such Bond Volume allocation request is made by the Borrower, which shall be held by the Authority until the first to occur of the closing on the Bonds or the abandonment of the financing of the Project by the Owner. The Good Faith Deposit shall be used by the Authority to pay the costs of advertising and conducting the required public hearing(s) as hereinafter authorized, and the balance shall be held by the Authority and applied, at the closing of the Bonds to pay all or any portion of the costs of issuance of each of the Bonds, or upon abandonment of the financing to reimburse any expenses of the Authority, the fees and expenses of the Authority’s Counsel and Bond Counsel, and to pay other related expenses, including but not limited to, official statement printing costs and credit rating agencies fees. The Good Faith Deposit shall be delivered to the Authority no later than five (5) days following the
adoption of this Resolution. In the event the Authority is unable to obtain an allocation of bond volume cap for the Bonds in an amount which, in the opinion of the Authority's Bond Counsel, Underwriter and the Owner, is not sufficient to finance the proposed Project, and the Owner elects to abandon the request for issuance of bonds by the Authority, the Good Faith Deposit, less expenses of the Authority (including expenses of its counsel and Bond Counsel), will be returned to the Owner.

SECTION 5. Memorandum of Agreement. In order to assure the location of and to induce the Owner to locate the Project in the boundaries of Flagler County, with the resulting public benefits which flow therefrom, and to more effectively serve the purposes of the Act, the proposed Memorandum of Agreement to be made between the Authority and the Owner, in the form attached hereto as Exhibit A. The Chairman or the Vice-Chairman of the Authority is hereby authorized and directed to execute the Memorandum of Agreement in the name of and on behalf of the Authority, and the Secretary or an Assistant Secretary of the Authority is hereby authorized and directed to attest the same and to affix thereto the official seal of the Authority, and the Chairman or Vice-Chairman is hereby authorized to deliver the Memorandum of Agreement to the Owner. Such officers and all other officers of the Authority are hereby authorized to execute and deliver such further agreements, instruments and documents and to take such further action as may be necessary and desirable to effectuate and carry out the intent and purposes of the Memorandum of Agreement, when executed and delivered by the Authority and Owner.

SECTION 6. Public Hearing Ratified and Authorized; Request for Approval. The Authority hereby ratifies and confirms that the Authority's Counsel is authorized to schedule and conduct on behalf of the Authority the public hearing regarding the issuance of the Bonds as required by Section 147(f) of the Code in Flagler County and Volusia County, and to make a report to the Board of County Commissioners of Flagler County and the County Council of Volusia County of the public hearing. The Board of County Commissioners of Flagler County and the County Council of Volusia County are hereby respectfully requested to approve the issuance of the Bonds by the Authority to finance the Project for purposes of Section 147(f) of the Code.

SECTION 7. Scope of Approval. It is expressly stated and agreed that the adoption of this Resolution is not a guaranty, express or implied, that the Authority shall approve the closing and issue the Bonds for the Project. The Owner shall hold the Authority and its past, present and future members, officers, staff, attorneys, financial advisors and employees harmless from any liability or claim based upon the failure of the Authority to close the transaction and issue the Bonds or any other cause of action arising from the adoption of this Resolution, the processing of the financing for the Project, or the issuance of the Bonds.

SECTION 8. Credit Underwriter. Seltzer Management Group is hereby designated and appointed by the Authority to serve as the credit underwriter for the Bonds on behalf of the Authority.
SECTION 9. **Repealing Clause.** All resolutions and orders or parts thereof, of the Authority, in conflict herewith are, to the extent of such conflict, hereby modified to the extent of such conflict.

SECTION 10. **Compliance with Open Meeting Laws.** It is found and determined that all formal actions of this Authority concerning and relating to the adoption of this Resolution were taken in an open meeting of the members of this Authority and that all deliberations of the members of this Authority and of its committees, if any, which resulted in such formal action were taken in meetings open to the public, in full compliance with all legal requirements.

SECTION 11. **Effective Date.** This resolution shall become effective immediately upon its adoption.

ADOPTED this 23rd day of April, 2019.

(SEAL)

HOUSING FINANCE AUTHORITY OF VOLUSIA COUNTY, FLORIDA

(ATTEST)

By: [Signature]
Name: King Pickett
Title: Chairman

Secretary
EXHIBIT A

MEMORANDUM OF AGREEMENT
MEMORANDUM OF AGREEMENT

This MEMORANDUM OF AGREEMENT, dated as of the 23rd day of April, 2019, between the HOUSING FINANCE AUTHORITY OF VOLUSIA COUNTY, FLORIDA (the "Authority") and CENTRAL LANDINGS PARTNERS, LTD., a Florida limited partnership, duly organized and existing under the laws of the State of Florida (the "Owner").

SECTION 1. The matters of mutual inducement and reliance which resulted in the execution of this Memorandum of Agreement are as follows:

(a) The Authority is authorized and empowered by Chapter 159, Part IV, Florida Statutes, as amended (the "Act"), to provide for the issuance of and to issue and sell its revenue bonds for the purpose of paying all or any part of the cost of any "affordable housing project" as defined in the Act.

(b) In order to improve the availability of affordable housing in Flagler County, Florida (the "County"), it is desirable that the Authority issue and sell its Multifamily Housing Revenue Bonds (Central Landings at Town Center Apartment Homes), Series 2019, in the aggregate principal amount of not to exceed $22,000,000 in one or more series at one or more times (the "Bonds"); provided, however, that the Authority may consider at a subsequent date an additional principal amount of taxable bonds.

(c) The Authority intends to use the proceeds thereof, to the extent of such proceeds, as follows: (i) to pay all or any part of the cost of issuance of the Bonds, (ii) to pay all or any part of the cost of acquiring, constructing and equipping a multifamily residential rental facility and facilities directly related or ancillary thereto to be known as Central Landings at Town Center Apartment Homes consisting of up to 194 units located in Palm Coast, Flagler County, Florida (the "Project") on behalf of the Owner, and (iii) to pay any other "cost" (as defined in the Act) of the Phase II Project.

(d) The Authority intends to finance the Project for the Owner by a loan of the proceeds of the sale of its Bonds, such loan to be payable by the Owner in installments sufficient to pay the principal of, premium (if any), interest and costs due on the Bonds when and as the same become due.

(e) The Owner has requested that the Authority enter into this Memorandum of Agreement for the purpose of declaring the Authority's intention to provide financing to pay a portion of the cost of the Project.

(f) The Authority, by resolution duly passed and adopted, has made certain findings and determinations and has approved and authorized the execution and delivery of this Memorandum of Agreement.
(g) The Owner represents that Bond proceeds will not be used to finance any
costs for the Project incurred prior to the date that is 60 days prior to the date on which
the Authority first declared its "official intent" to issue its revenue bonds to finance the
Project as described in Treasury Regulation Section 1.150-2, except to the extent allowed
by federal tax law.

SECTION 2. If purchase arrangements satisfactory to the Authority and the Owner can
be made by the Owner and its agents and the conditions of the Authority are satisfied, the
Authority will authorize the issuance and sale of the Bonds, and will issue and sell the Bonds to
such purchaser or purchasers of the Bonds, all upon such terms and conditions as shall be
approved by the Owner and the Authority and authorized by law and in accordance with the
policies and procedures of the Authority. The Bonds will be payable solely from the revenues
and proceeds derived from the Authority from payments by the Owner derived from the operation,
leasing or sale of the Project, and will not constitute a debt, liability or obligation of the Authority,
the County, Volusia County, Florida or of the State or of any other political subdivision thereof.
The Authority shall not be obligated to pay the same nor interest, premium (if any) or costs
thereon except from the revenues and proceeds pledged therefor, and neither the faith and credit
nor the taxing power of the County, Volusia County, Florida or of the State or of any other
political subdivision thereof will be pledged to the payment of the principal of, premium (if any),
interest or costs due pursuant to or under such Bonds.

From the date hereof, until the sale of the Bonds, the Owner will, within ten (10) days after
its occurrence, notify the Authority of any material change, whether or not adverse, in the
business, operations or financial condition of the Owner. In the event the Authority shall, at any
time prior to sale of the Bonds, determine in its sole discretion that there has been a material
adverse change in the business, operations or financial based upon financial statements or notices
provided by the Owner in accordance herewith, the obligation of the Authority to issue and sell
the Bonds shall, at the option of the Authority, be terminated.

SECTION 3. The Authority will, at the proper time, and subject in all respects to the
prior advice, consent and approval of the Owner, submit applications, adopt such proceedings
and authorize the execution of such documents as may be necessary and advisable for the
authorization, sale and issuance of the Bonds and the construction and equipping of the Project,
all as shall be authorized by law and mutually satisfactory to the Authority and the Owner.

The Authority reserves the right to determine, in its sole discretion, the amount of bond
volume allocation to apply for on behalf of the Owner, which amount shall not exceed
$22,000,000. The Owner agrees to fully cooperate with the Authority in its bond volume
application needs and agrees to take such steps as may be requested by the Authority in the
timing of the issuance of the Bonds.

SECTION 4. The Bonds are anticipated to be privately placed with a financial
institution, currently anticipated to be BankUnited, and issued as a single Bond equal to the
aggregate principal amount of Bonds issued, shall bear interest at such rate or rates, shall be
payable at such times and places, shall be in such forms, shall be sold in such manner and at such
time or times, shall have such provisions for redemption, shall be executed, and shall be secured,
all as shall be authorized by the Act and all on terms mutually satisfactory to the Authority and
the Owner.

SECTION 5. The Authority will use and apply the proceeds of the issuance and sale of
the Bonds, or cause such proceeds to be used and applied, to the extent of such proceeds, to pay
the cost of the Project, and will loan such Bond proceeds to the Owner for the Project pursuant to
a financing agreement requiring the Owner to make payment for the account of the Authority in
installments sufficient to pay all of the interest, principal, redemption premiums (if any) and other
costs due under and pursuant to the Bonds when and as the same become due and payable, to
operate, repair and maintain the Project at the Owner's own expense, to pay all other costs
incurred by the Authority in connection with the financing of the acquisition, rehabilitation,
expansion, equipping and administration of the Project which are not paid out of the Bond
proceeds or otherwise for so long as any of the Bonds remain outstanding, and for the conveyance
to the Owner of all rights, title and interest of the Authority in and to the Project when all of the
obligations of the Owner under the financing agreement have been performed and satisfied.

SECTION 6. The Owner hereby acknowledges and accepts that it shall be solely
responsible for the construction and equipping of the Project, it being understood and agreed that
the Owner shall provide all services incident to the construction and equipping of the Project
(including, without limitation, the preparation of plans, specifications and contract documents,
the award of contracts, the inspection and supervision of work performed, the employment of
engineers, architects, building and other contractors) and that the Owner shall pay all costs of the
Project, subject to reimbursement by the Authority upon the issuance and sale of the Bonds of
costs of the Project as permitted by applicable State law and federal tax law, and the use and
application of the proceeds thereof as provided above. The Authority shall have no responsibility
for the provision of the aforesaid services. The Owner agrees that to the extent that the proceeds
derived from the sale of the Bonds are not sufficient to complete the Project, the Owner, as the
owner of the Project, will be responsible for supplying all additional funds which are necessary
for the completion of the Project. So long as this Memorandum of Agreement is in effect all risk
of loss to the Project will be borne by the Owner.

SECTION 7. At or prior to the time of issuance and sale of the Bonds, the Authority will
enter into a trust indenture or other similar funding security arrangement with a corporate trustee
or fiscal agent (the "Trustee") to secure the Bonds, whereby the Authority's interest in the Project,
the financing agreement with the Owner, and all fees, rents, charges, proceeds from the operation
of the Project, and other funds and revenues in respect of the Project, subject to certain rights
reserved by the Authority, will be pledged and assigned to the Trustee, and held by the Trustee
in trust, for the benefit of the holders, from time to time, of the Bonds. In addition, the Owner
hereby agrees, on behalf of itself and other guarantors to be designated by subsequent resolution
of the Authority, that they will execute and deliver such guarantees and monitoring agreements
as are customarily required by the rules, policies and practices of the Authority.
SECTION 8. At or prior to the time of issuance and sale of the Bonds, the following conditions precedent shall have been satisfied:

(a) The Owner shall have satisfactorily completed all procedures established by the Authority for the review and approval of multifamily housing revenue bond issues including, without limitations, the delivery of a credit underwriting report acceptable to the Authority and the satisfaction of all conditions stated therein, and has provided for the payment of all costs of issuance associated with the issuance of the Bonds, including, but not limited to, the fees and expenses of the Authority, its counsel, and Bond Counsel, fees and expenses of the trustee, credit underwriting fees, credit enhancement fees, rating fees, printing costs and any underwriting fees and expenses.

(b) The Authority shall have duly passed and adopted resolutions making all findings required by law and authorizing the issuance and sale of the Bonds and the execution and delivery of the financing agreement, the trust indenture and such other agreements, instruments and documents as may be required to be specifically authorized. It is an express condition of this Memorandum of Agreement that the Bonds be sold only in the manner approved by the Authority.

(c) The Owner shall have authorized the execution, delivery and performance of the financing agreement, and approved the trust indenture and the issuance and sale of the Bonds, and authorized or approved such other agreements, instruments and documents for which specific authorization or approval may be required.

(d) The Owner shall have provided a satisfactory opinion of its counsel with respect to the due authorization, execution and delivery of the financing agreement, and related agreements, instruments and documents, their legality, validity, binding effect and enforceability in accordance with their respective terms, and the absence of any violation of law, rule, regulation, judgment, decree or order of any court or other agency of government and agreements, indentures or other instruments to which the Owner is a party or by which it or any of its property, is or may be bound and to such other matters as may be reasonably requested.

(e) The Owner and the Authority shall have executed and delivered such non-arbitrage certificates and representations, as may be required to comply with Section 148 of the Internal Revenue Code of 1986, as amended, or any similar successor provisions and the regulations, rulings and interpretative court decisions thereunder.

(f) Bryant Miller Olive P.A., as Bond Counsel, shall have delivered its opinion with respect to the validity of the Bonds, and to the income tax status of the interest on the Bonds.

(g) The Owner shall have provided such other or additional representations, warranties, covenants, agreements, certificates, financial statements, and other proofs as
may be required by the Authority, its counsel or Bryant Miller Olive P.A., as Bond Counsel.

(h) There shall have been obtained confirmation of an allocation from the Division of Bond Finance of the State of Florida or any successor thereto for issuance of the Bonds to finance the Project.

SECTION 9. In the event that the Bonds are not issued and sold and the transactions contemplated hereby are not closed within the time limit permitted by the confirmation of an allocation (referred to in 8(h) above) for any reason whatsoever and whether or not as a result of any failure to find one or more purchasers for the Bonds, any default or failure of performance by the Authority, the inability of the Authority to issue and sell the Bonds or the failure or inability of the Authority and the Owner to agree to the terms and conditions of the agreements, instruments and other documents provided for herein or contemplated hereby, the Owner agrees unless waived in the sole discretion of the Authority that:

(a) The Owner will (i) pay all its costs and expenses, including any fees due any attorneys, financial agents or others employed by the Owner, (ii) pay the reasonable fees and expenses of Bond Counsel and the credit underwriter, and (iii) reimburse the Authority for all reasonable out-of-pocket costs and expenses, including reasonable fees and expenses of the Authority’s counsel which the Authority may have incurred in connection with or contemplated by this Memorandum of Agreement.

(b) The Owner will indemnify and hold the Authority, and the Authority’s members, officers, attorneys, financial advisors, underwriters, employees and agents, harmless against any liabilities, allegations or claims of loss or damage (including attorneys’ fees and expenses) pertaining to the Project, the Bonds, or any transaction contemplated hereunder, or arising out of or predicated upon this Memorandum of Agreement, any action or non-action taken or omitted in reliance upon this Memorandum of Agreement, or any default or failure of performance hereunder.

SECTION 10. No covenant or agreement contained in this Memorandum of Agreement or the Bonds, the trust indenture, the financing agreement, or in any other instrument relating to the Bonds or the Project, shall be deemed to be a covenant or agreement or any member, officer, employee or agent of the Authority in an individual capacity, and neither the members or any other officer of the Authority executing the Bonds or any such agreements or instruments shall be liable personally thereon or be subject to any personal liability or accountability by reason thereof.
IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement and affixed their respective seals, as of the date first written above.

HOUSING FINANCE AUTHORITY OF VOLUSIA COUNTY, FLORIDA

By: [Signature]
   Chairman

(SEAL)

ATTEST:

[Signature]
Secretary

CENTRAL LANDINGS PARTNERS, LTD., a Florida limited partnership

By: Southern Affordable Services, Inc., a Florida not for profit corporation, its General Partner

By: [Signature]
   Jay F. Brock
   Executive Vice President
RESOLUTION NO. 2019-__

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, APPROVING THE ISSUANCE BY THE HOUSING FINANCE AUTHORITY OF VOLUSIA COUNTY, FLORIDA OF ITS NOT TO EXCEED $9,000,000 MULTIFAMILY HOUSING REVENUE BONDS (CENTRAL LANDINGS AT TOWN CENTER SENIOR LIVING), SERIES 2019 FOR THE BENEFIT OF CENTRAL LANDINGS 83, LTD., OR ITS AFFILIATE, TO PROVIDE FUNDS TO FINANCE A MULTIFAMILY RESIDENTIAL RENTAL PROJECT, AND THE ISSUANCE BY THE HOUSING FINANCE AUTHORITY OF VOLUSIA COUNTY, FLORIDA OF ITS NOT TO EXCEED $22,000,000 MULTIFAMILY HOUSING REVENUE BONDS (CENTRAL LANDINGS AT TOWN CENTER APARTMENT HOMES), SERIES 2019 FOR THE BENEFIT OF CENTRAL LANDINGS PARTNERS, LTD., OR ITS AFFILIATE, TO PROVIDE FUNDS TO FINANCE A MULTIFAMILY RESIDENTIAL RENTAL PROJECT; RATIFY AND CONFIRM THE AUTHORITY OF THE VOLUSIA COUNTY HOUSING FINANCE AUTHORITY TO OPERATE IN FLAGLER COUNTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Housing Finance Authority of Volusia County, Florida (the "Authority") is a public body corporate and politic, duly organized and existing under the provisions of Chapter 159, Part IV, Florida Statutes, as amended and supplemented, which has been granted "area of operation" authority within Flagler County with respect to the financing of Central Landings at Town Center and Central Landings at Town Center, Phase II, each a multifamily residential rental facility development (as hereinafter identified); and

WHEREAS, Central Landings 83, Ltd., a Florida limited partnership, or one of its affiliates (the "Senior Living Borrower"), has requested the Authority to issue its Multifamily
Housing Revenue Bonds (Central Landings at Town Center) (the "Senior Living Bonds"), the proceeds of which would be used to (i) pay or reimburse the Senior Living Borrower for the cost of acquisition, construction and equipping a multifamily residential rental apartment project, to be known as Central Landings at Town Center Apartments (the “Central Landings at Town Center Senior Living Development”), which will consist of 83 residential units, at least 40% of such units are to be occupied by persons of low and moderate income, whose income does not exceed 60% of the area median income, to be located on the North side of Central Avenue, approximately 512 feet East of the intersection of Brookhaven Way and Central Avenue, in the City of Palm Coast, Flagler County, Florida (the "Senior Living Project Location"); and (ii) pay a portion of the costs of issuance of the Senior Living Bonds; and

WHEREAS, Central Landings Partners, Ltd., a Florida limited partnership, or one of its affiliates (the “Apartment Homes Borrower”, together with the Senior Living Borrower, collectively, the “Borrowers”), has requested the Authority to issue its Multifamily Housing Revenue Bonds (Central Landings at Town Center) (the "Apartment Homes Bonds", together with the Senior Living Bonds, collectively, the “Bonds”), the proceeds of which would be used to (i) pay or reimburse the Apartment Homes Borrower for the cost of acquisition, construction and equipping a multifamily residential rental apartment project, to be known as Central Landings at Town Center (the “Central Landings at Town Center Apartment Homes Development”, together with the Central Landings at Town Center Senior Living Development, collectively, the “Developments”), which will consist of up to 194 residential units, at least 40%
of such units are to be occupied by persons of low and moderate income, whose income does not exceed 60% of the area median income, to be located on the North side of Central Avenue, approximately 512 feet East of the intersection of Brookhaven Way and Central Avenue, in the City of Palm Coast, Flagler County, Florida (the "Apartment Homes Project Location"); and (ii) pay a portion of the costs of issuance of the Apartment Homes Bonds; and

WHEREAS, the Authority conducted a public hearing on May 15, 2019, notice of which hearing was published on May 6, 2019, in the News Journals (a copy of which notice is attached hereto as Exhibit "A" and incorporated herein), for the purpose of considering the issuance of the Bonds by the Authority, in accordance with the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"). Said public hearing disclosed no reason why the Bonds should not be issued; and

WHEREAS, Section 147(f) of the Code requires approval of the issuance of the Bonds by the Board of County Commissioners of Flagler County, Florida (the "Board"), as the "applicable elected representative" under Section 147(f) after a public hearing following reasonable public notice; and

NOW, THEREFORE, BE IT RESOLVED BY BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, as follows:

Section 1. The Board, pursuant to, and in accordance with, the requirements set forth in Section 147(f) of the Code, hereby approves the issuance of the Bonds by the Authority, in one or more series at one or more times. In conjunction with the Bond closing, the Borrower and the
general partner of that Borrower shall have each executed and delivered to the Board an Indemnity Agreement in favor of the County, substantially in the form attached hereto as composite Exhibit B (the "Borrower Indemnity Agreement").

Section 2. The Bonds shall not constitute a debt, liability or obligation of the County, the State of Florida (the "State") or any political subdivision or agency thereof other than the Authority, or a pledge of the faith and credit of the Authority, the County, the State or of any political subdivision or agency thereof, and neither the Authority, the County, the State nor any political subdivision or agency thereof will be liable on the Bonds, nor will the Bonds be payable out of any funds other than those pledged and assigned under the Indentures and the Loan Agreements.

Section 3. The approval given herein is solely for the purpose of satisfying the requirements of Section 147(f) of the Code and shall not be construed as an approval of any necessary rezoning application or any regulatory permits required in connection with the issuance of the Bonds or the construction of the Project, and this Board shall not be construed by virtue of its adoption of this Resolution to have waived, or be estopped from asserting, any rights or responsibilities it may have in that regard.

Section 4. The Authority is hereby authorized to request bond volume allocation for the Developments from the regional allocation available to Flagler County.
Section 5. This resolution shall take effect immediately upon its adoption.

ADOPTED this ___ day of ___, 2019.

BOARD OF COUNTY COMMISSIONERS OF
FLAGLER COUNTY, FLORIDA

(SEAL)

By: ____________________________
   Chairman

ATTEST:

By: ____________________________
   Secretary
EXHIBIT A

NOTICE OF PUBLIC HEARING
AND REPORT OF AUTHORITY AS TO PUBLIC HEARING
TEFRA HEARING IN VOLUSIA COUNTY, FLORIDA
RE: CENTRAL LANDINGS AT TOWN CENTER SENIOR LIVING AND
CENTRAL LANDINGS AT TOWN CENTER APARTMENT HOMES

MINUTES OF A PUBLIC HEARING of the HOUSING FINANCE AUTHORITY
OF VOLUSIA COUNTY, FLORIDA conducted on May 16, 2019, at 1:30 pm
located in the Flagler County Government Services Building, 1st Floor conference
room, 1769 East Moody Boulevard, Building 2, Bunnell, FL 32110.

A public hearing was conducted by Sarah Metz, General Counsel of the Authority, at the
time and place set forth above, pursuant to published notice as required by law (Section 147(f)
of the Internal Revenue Code of 1986, as amended), on the proposed issuance by the Authority
of its Multifamily Housing Revenue Bonds (Central Landings at Town Center Senior Living),
Series 2019, in an aggregate principal amount of not to exceed $9,000,000 in one or more series,
for the benefit of Central Landings 83, Ltd., or one of its affiliates, to provide financing for a
multifamily rental housing facility to consist of 86 units to be located in the City of Palm Coast,
Flagler County, Florida, with a minimum of 40% of such units to be occupied by persons of low
to moderate income (the "Central Landings at Town Center Senior Living Project"), to be
owned by Central Landings 83, Ltd., a Florida limited partnership (the "Owner") and its
Multifamily Housing Revenue Bonds (Central Landings at Town Center Apartment Homes),
Series 2019, in an aggregate principal amount of not to exceed $22,000,000 in one or more series,
for the benefit of Central Landings Partners, Ltd., or one of its affiliates, to provide financing for
a multifamily rental housing facility to consist of 194 units to be located in the City of Palm Coast,
Flagler County, Florida, with a minimum of 40% of such units to be occupied by persons of low
to moderate income (the "Central Landings at Town Center Apartment Homes Project" and
together with the Central Landings at Town Center Senior Living Project, collectively the
"Project"), to be owned by Central Landings Partners, Ltd., a Florida limited partnership (the "Owner").

Notice of public hearing was published on May 6, 2019 in the Daytona Beach News-
Journal, a newspaper of general circulation in Volusia, Florida. It was stated that the publisher's
affidavit for the above-described publication, with newspaper clipping attached hereto as
Exhibit "A" (the "Notice"), were available for inspection and copying if anyone so desired.

All interested persons wishing to contend for or against the issuance by the Housing
Finance Authority of Volusia County, Florida of the Project Bonds were allowed to be heard
and all oral or written statements were considered. When polled to see if there were any
interested persons wishing to speak, the following persons were recognized:

[None]
Any interested persons desiring to file written statements were given the full opportunity to do so; the persons filing written statement were as follows:

[None]

Written statements were solicited from interested persons pursuant to an invitation set forth in the public notice referred to above; the persons filing written statements with the Authority pursuant to such invitation were as follows:

[None]

Thereupon, after all persons desiring to speak or submit written statements had been permitted to do so, and Ms. Metz stated that the public hearing on the proposed issuance of the Bonds by the Authority was concluded.

DATED May 16, 2019

Sarah Metz, General Counsel
Housing Finance Authority
of Volusia County
EXHIBIT "A" TO REPORT OF HEARING OFFICER
PROOF OF PUBLICATION

[Follows]
THE NEWS-JOURNAL
Published Daily and Sunday
Daytona Beach, Volusia County, Florida

State of Florida,
County of Volusia

Before the undersigned authority personally appeared

Irene Zucker

who, on oath says that she is ..................................

LEGAL COORDINATOR
of The News-Journal, a daily and Sunday newspaper, published at Daytona Beach in Volusia County, Florida; the attached copy of advertisement, being a ..................................................

NOTICE OF PUBLIC HEARING

L 2328142

in the Court,
was published in said newspaper in the issues..........

MAY 6, 2019

Affiant further says that The News-Journal is a newspaper published at Daytona Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida, each day and Sunday and has been entered as second-class mail matter at the post office in Daytona Beach, in said Volusia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper

..............................................

Sworn to and subscribed before me

This 6TH of MAY

A.D. 2019

..............................................
EXHIBIT B

FORM OF BORROWER INDEMNITY AGREEMENTS
FORM OF GENERAL PARTNER INDEMNITY AGREEMENTS
FORM OF
BORROWER INDEMNITY AGREEMENT

Board of County Commissioners of Flagler County, Florida
1769 East Highway 100
Bunnell, Florida

Re:  [$____________ Housing Finance Authority of Volusia County, Florida
Multifamily Housing Revenue Bonds (Central Landings at Town Center Senior
Living), Series 2019]
[$____________ Housing Finance Authority of Volusia County, Florida
Multifamily Housing Revenue Bonds (Central Landings at Town Center
Apartment Homes), Series 2019]

Ladies and Gentlemen:

The undersigned, [Central Landings 83, Ltd.][Central Landings Partners, Ltd.], a Florida
limited partnership (the “Borrower”), hereby proposes to enter into the following agreement, in
its individual capacity, in consideration for the approval, pursuant to Section 147(f) of the Internal
Revenue Code of 1986, as amended, of the captioned series of Bonds (the “Bonds”) by the Board
of County Commissioners of Flagler County, Florida (the “Board”) on behalf of Flagler County,
Florida (the “County”), as follows (capitalized terms not otherwise defined herein have the
meaning ascribed to them in the Trust Indenture (the “Trust Indenture”) among the Housing
Finance Authority of Volusia County, Florida (the “Issuer”), and [BNY Mellon Corporate Trust],
as Trustee, dated as of ______________2019 entered into with respect to the Bonds):

Section 1.  Indemnification with respect to Cost of Issuance. The Borrower expressly
recognizes that the County has no liability or responsibility for the payment of any costs of
issuance related to Bonds, or to any other costs related to the issuance of the Bonds. The Borrower
will protect, and indemnify and save harmless the County, the Board and the members, officers,
agents and employees of the County and the Board from and against any and all costs associated
with issuance of the Bonds.

Section 2.  Indemnification with respect to Operation of the Project. The Borrower
expressly recognizes that neither the County nor the Board has any liability or responsibility for
the operation of the Project. The Borrower will protect, and indemnify and save harmless the
County, the Board and the members, officers, agents and employees of the County and the Board
(the “Indemnified Parties” and each an “Indemnified Party”) from and against any and all costs
associated with the operation of the Project.

Section 3.  Limitation on Liability Arising out of Settlements. Notwithstanding
anything herein to the contrary, the Borrower shall not be liable to any Indemnified Party for any amount resulting from any settlement of a claim otherwise covered by the Agreement if and to the extent such settlement is made without the prior written consent of the Borrower.

Section 4. Parties and Interests; Survival of Representations. This Agreement is made solely for the benefit of the Board and the Issuer and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof, and no Indemnified Party may assign its rights or benefits hereunder to any person without the prior written consent of the Borrower. All representations and agreements by the Borrower in this Agreement shall survive the delivery of and payment for the Bonds, or any assignment by the Borrower of its obligations under the Financing Agreement or any assignment by the Borrower of its obligations under the Financing Agreement, provided that said representations shall speak only as of the date hereof. Furthermore, prior to or concurrently with any assignment by the Borrower of its obligations under the Financing Agreement, the General Partner shall, or shall cause the Borrower to, obtain and deliver to the Board an indemnity agreement from such assignee to the Board in substantially the form of this Agreement or such other form as shall be acceptable to the Board.

Section 5. Miscellaneous. This Agreement may be executed in several counterparts, each of which, when so executed, shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.

Section 6. Governing Law. This Agreement shall be governed by the laws of the State of Florida.

[The remainder of this page intentionally left blank]
IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute and deliver this Indemnity Agreement as of the ____ day of ________, 2019.

[CENTRAL LANDINGS 83, LTD.]

By: Southern Affordable Services, Inc., a Florida non-profit corporation, its sole member

By: ________________________________
   Jay P. Brock, Executive Vice President]

[CENTRAL LANDINGS PARTNERS, LTD.]

By: Southern Affordable Services, Inc., a Florida non-profit corporation, its sole member

By: ________________________________
   Jay P. Brock, Executive Vice President]

WITNESS

__________________________________

__________________________________

Accepted and Agreed to:

BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA

By: ________________________________
Name: ________________________________
Title: ________________________________
FORM OF
GENERAL PARTNER INDEMNITY AGREEMENT

Board of County Commissioners of Flagler County, Florida
1769 East Highway 100
Bunnell, Florida

Re:  [$_____________ Housing Finance Authority of Volusia County, Florida Multifamily Housing Revenue Bonds (Central Landings at Town Center Senior Living), Series 2019]
   [$_____________ Housing Finance Authority of Volusia County, Florida Multifamily Housing Revenue Bonds (Central Landings at Town Center Apartment Homes), Series 2019]

Ladies and Gentlemen:

The undersigned, Southern Affordable Services, Inc., a Florida non-profit corporation (the "General Partner"), the general partner of [Central Landings 83, Ltd.][Central Landings Partners, Ltd.], a Florida limited partnership (the "Borrower"), hereby proposes to enter into the following agreement in its individual capacity, in consideration for the approval, pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, of the captioned series of Bonds (the "Bonds") by the Board of County Commissioners of Flagler County, Florida (the "Board") on behalf of Flagler County, Florida (the "County"), as follows (capitalized terms not otherwise defined herein have the meaning ascribed to them in the Financing Agreement (the "Financing Agreement") among the Housing Finance Authority of Volusia County, Florida (the "Issuer"), [BNY Mellon Corporate Trust], as Trustee, and the Borrower, dated as of ________________ 1, 2019, entered into with respect to the Bonds:

Section 1. Representations with respect to the Borrower. The General Partner represents and warrants to the County that: (a) the General Partner is and will be at the date of Closing a duly organized Florida non-profit corporation; (b) the General Partner is empowered and has been duly authorized to approve this Agreement; (c) the execution, delivery and performance of this Agreement, the Financing Agreement, the Mortgage, and the execution and delivery of the Promissory Note have been duly authorized by the General Partner, and compliance with the provisions hereof and thereof, under the circumstances contemplated herein and therein, will not in any material respect constitute on the part of the General Partner a breach of or default (with due notice or the passage of time or both) under the Articles of Incorporation of the General Partner, or any indenture, mortgage, Financing Agreement, contract or other agreement or other instrument to which the General Partner is a party, or any existing law, administrative regulation, court order or consent decree to which the General Partner is subject or by which it or any of its properties are otherwise subject or bound; (d) there is no action, suit, litigation, proceeding, inquiry or investigation at law or in equity or by or
before any judicial or administrative court, agency, body or other entity, pending or, to the best of the knowledge of the general partner, threatened against the Borrower or any of its properties, or any basis therefor, wherein an unfavorable decision, ruling or finding (1) would adversely affect the issuance, delivery, validity or enforceability of the Bonds or this Agreement, (2) might result in any materially adverse change in the limited partnership existence or powers of the Borrower, or is likely to result in any material adverse change in the business, properties, assets, liabilities or condition (financial or otherwise) of the Borrower, or (3) would otherwise materially adversely affect the ability of the Borrower to comply with its obligations under the Financing Agreement, the Promissory Note, the Mortgage, or this Agreement, or materially adversely affect the transactions contemplated by the Indenture; (e) no event or event with notice or lapse of time or both which would constitute a material event of default under the Financing Agreement, the Mortgage, or the Indenture or any other material agreement or instrument to which the Borrower is a party or by which the Borrower or its properties is or may be bound has occurred or is continuing: (f) the Borrower is authorized under the laws of the State of Florida to conduct the business represented by the Project, and has or will timely obtain, all material licenses, permits and approvals required to carry on and operate all of its properties, including all licenses, permits and approvals from state and municipal authorities required to carry on and operate the Project, and to apply the proceeds of the Bonds in the manner described in the Indenture; (g) the Borrower is not in violation of nor has it received any notice of an alleged material violation of any environmental, zoning, land use or other similar laws or regulations applicable to its properties; and (h) the Borrower, upon acquisition of the Project, will have a fee simple estate in the Project, free of all liens, charges and encumbrances and good title to all of its material properties, subject only to Permitted Encumbrances (as defined in the Financing Agreement).

Section 2. Indemnification with Respect to the Project.

(A) The General Partner will protect, indemnify and save the County and the members, officers, agents and employees of the County (the "Indemnified Parties" and each an "Indemnified Party"), harmless from and against all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees, disbursements and expenses of the County), taxes, causes of action, suits, claims, demands and judgments of any nature arising from:

(i) any injury to or death of any person or damage to property in or upon the Project or growing out of or connected with the use, non-use, condition or occupancy of the Project or any part thereof that occurs while the Borrower is in possession and control of the Project, including any and all acts or operations relating to the construction or installation of property or improvements. The foregoing indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the General Partner, customers, suppliers or affiliated organizations under any Workers' Compensation Acts, Disability Benefit Acts or other employee benefit acts;
(ii) violation by Borrower of any material agreement, provision or condition of the Financing Agreement:

(iii) violation by Borrower of any contract, agreement or restriction relating to the Project which shall have existed at the date of the closing of the Bonds, and has been disclosed to the General Partner, or which shall have been approved by the General Partner or which the General Partner, in the exercise of reasonable diligence, should have had knowledge of;

(iv) violation by Borrower of any law, ordinance, court order or regulation affecting the Project or a part thereof or the ownership, occupancy or use thereof;

(v) the Financing Agreement, the Bonds, the Indenture or any other Bond Document to which the Borrower or the Housing Finance Authority of Volusia County, Florida is a party or the transactions contemplated thereby;

(vi) any statement or information relating to the expenditure of the proceeds of the Bonds contained in the Arbitrage Rebate Agreement or certificate executed by the Borrower at the date of the closing of the Bonds which, at the time made, is misleading, untrue or incorrect in any material respect; and

(vii) failure to properly register or otherwise qualify the sale of the Bonds or failure to comply with any licensing or other law or regulation which would affect the manner whereby or to whom the Bonds could be sold.

(B) Promptly after receipt by the County of notice of the commencement of any action with respect to which indemnity may be sought against the General Partner under this Section, such person will notify the General Partner in writing of the commencement thereof, and, subject to the provisions hereinafter stated, the General Partner shall assume the defense of such action (including the employment of counsel, who shall be counsel satisfactory to the County, and the payment of expenses). Insofar as such action shall relate to any alleged liability with respect to which indemnity may be sought against the General Partner, the County may employ separate counsel in any such action and participate in the defense thereof.

Section 3. Indemnification with respect to the Tax Exemption of the Bonds.

(A) The General Partner will protect, indemnify and save the County and the members, officers, agents and employees of the County (all of such indemnified parties being herein referred to as "Indemnified Parties"), harmless from and against all liabilities, losses,
damages, costs, expenses (including reasonable attorneys' fees, disbursements and expenses of
the County) or taxes owed to third parties arising out of any causes of action, suits, claims,
demands and judgments of any nature arising from an Event of Taxability in respect of the
Bonds. For purposes hereof, an Event of Taxability shall be deemed to occur when the Internal
Revenue Service delivers written notice to the Issuer, the Trustee or any Bondholder that the
interest on the Bonds is no longer excludable from gross income for purposes of federal income
taxation under section 103 of the Internal Revenue Code of 1986, as amended (the "Code"),
or in any period during which a Series 2019 Bond is held by a person who is a
"substantial user" of the Project or a "related person" within the meaning of Section 147(a) of the
Code, as a result of the Borrower's noncompliance with Section 142(d) of the Code regarding
the expenditure of Bond proceeds on costs of the Project and operating rules regarding low
income set aside units or Section 148 of the Code regarding investment restrictions on the
proceeds of the Bonds and any required arbitrage rebate requirements.

(B) In case any claim shall be made or action brought against an Indemnified Party
based upon an Event of Taxability, in respect of which indemnity may be sought against the
General Partner, such Indemnified Party shall promptly notify the General Partner in writing
setting forth the particulars of such claim or action and the General Partner shall assume the
defense thereof, including the retaining of counsel and the payment of all expenses (including,
without limitation, the costs of any investigation or preparation that may be required). Each
Indemnified Party shall have the right to retain separate counsel in any such action and to
participate in the defense thereof, but the fees and expenses of such counsel shall be at the
expense of such Indemnified Party unless the retaining of such counsel has been specifically
authorized by the General Partner. If the General Partner shall not have retained counsel for the
defense of any such action or if any Indemnified Party shall be advised and reasonably
conclude that there may be defenses available to it which are different from or additional to
those available to the General Partner, the General Partner shall not have the right to direct the
defense of action on behalf of any such Indemnified Party and such Indemnified Party shall
have the right to retain separate counsel in any such action and to participate in the defense
thereof, and the fees and expenses of such counsel shall be assumed by such Indemnified Party.

Section 4. Limitation on Liability Arising out of Settlements. Notwithstanding
anything herein to the contrary, the General Partner shall not be liable to any Indemnified Party
for any amount resulting from any settlement of a claim otherwise covered by the Agreement if
and to the extent such settlement is made without the prior written consent of the General
Partner.

Section 5. Parties and Interests; Survival of Representations. This Agreement is
made solely for the benefit of the County and the Issuer and no other person, partnership,
association or corporation shall acquire or have any rights hereunder or by virtue hereof, and
no Indemnified Party may assign its rights or benefits hereunder to any person without the
prior written consent of the General Partner. All representations and agreements by the
General Partner in this Agreement shall survive the delivery of and payment for the Bonds, or
any assignment by the Borrower of its obligations under the Financing Agreement or any assignment by the Borrower of its obligations under the Financing Agreement, provided that said representations shall speak only as of the date hereof. Furthermore, prior to or concurrently with any assignment by the Borrower of its obligations under the Financing Agreement, the General Partner shall, or shall cause the Borrower to, obtain and deliver to the County an indemnity agreement from such assignee to the County in substantially the form of this Agreement or such other form as shall be acceptable to the County.

Section 6. **Miscellaneous.** This Agreement may be executed in several counterparts, each of which, when so executed, shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.

Section 7. **Governing Law.** This Agreement shall be governed by the laws of the State of Florida.

[The remainder of this page intentionally left blank]
IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute and deliver this Indemnity Agreement as of the _____ day of _________, 2019.

SOUTHERN AFFORDABLE SERVICES, INC., a Florida non-profit corporation, its sole member

By: __________________________
   Jay P. Brock
   Executive Vice President

WITNESS

______________________________

______________________________

Accepted and Agreed to:

BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA

By: __________________________
Name: __________________________
Title: __________________________

(Signature page to General Partner Indemnity Agreement)
SUBJECT: Consideration of the Florida Department of Transportation (FDOT) Five-Year Work Program Project Priority List for Fiscal Years 2020/2021 through 2024/2025.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: The Florida Department of Transportation (FDOT) has requested that Flagler County submit a project priority list for the 2020/2021 through 2024/2025 funding cycle, the same as they do every year at this time. Each year FDOT utilizes the list to determine what new projects are to be added to the 5-year FDOT work program.

The projects have been ranked based on need as determined by County staff. Projects of the municipalities of Palm Coast, Flagler Beach, Beverly Beach and Bunnell are within the River to Sea Transportation Planning Organization’s 5-Year Work Program. We are requesting that the Board approve the rankings below.

Recommended FDOT Five Year Work Program Project Priority List for Fiscal Years 2020/2021 through 2024/2025:

1. CR 304 Bridge Replacements
2. CR 304 Resurfacing Segment 2 (SR 11 to US1)
3. CR 304 Resurfacing Segment 1 (CR 305 to SR 11)
4. CR 205 Resurfacing Phase 2 (SR 100 to Private Dirt Road at M.P. 1.856)
5. Otis Stone Hunter Road Paving
6. Rima Ridge Resurfacing – Cone Road, Relay Road, Bareback Trail, Bridlepath Lane, Rodeo Road, and Collector Roads
7. Armand Beach Roadway Improvements
8. Malacompra Road Resurfacing
9. Durrance Lane Paving
10. East Daytona North Roadway Stabilization - 23.75 Miles
11. Hammock Area Roadway Stabilization – 4.7 Miles
12. Canal Avenue Paving from Forest Park Street to Coconut Boulevard
13. Forest Park Street and County Road 35 Paving from SR 100 to End
14. West Flagler County Roadway Stabilization - 14.75 Miles
15. West Daytona North Roadway Stabilization - 24.1 Miles
17. Canal Avenue and Water Oak Road Intersection Improvement
18. Walnut Avenue Paving from Forest Park Street to Water Oak Road
19. Jungle Hut Road Resurfacing
20. Old Kings Road South 4-Laning from SR 100 to Flagler County Line
21. John Anderson Highway 4-Laning from SR 100 to Flagler County Line
22. St. Mary’s Place Paving and Drainage Improvements – Old Dixie Highway to End of Roadway
23. Old Kings Road North I-95 Overpass
25. Seascape Drive Repaving and Reconstruction
26. Westmayer Place Paving
FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Faith Alkhatib, P.E. County Engineer (386) 313-4045

RECOMMENDATIONS: Request the Board approve the FDOT Five-Year Work Program project priority list for fiscal years 2020/2021 through 2024/2025.

ATTACHMENTS:
1. Resolution to approve FDOT 5-Year Work Program Priority List with Exhibit
2. FDOT 5-Year Work Program Priority List Project Descriptions
RESOLUTION NO. 2019-___

A RESOLUTION BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING THE PRIORITIZED LIST OF PROJECTS FOR INCLUSION IN THE FDOT FIVE-YEAR WORK PROGRAM AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Department of Transportation (FDOT) annually requests project priorities for inclusion in the FDOT 5-Year Work Program; and

WHEREAS, Flagler County desires to submit a prioritized list of projects for inclusion in the FDOT 5-Year Work Program.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Flagler County, Florida as follows:

Section 1. The prioritized list of projects for inclusion in the FDOT Five-Year Work Program, as attached hereto and incorporated herein by reference as Exhibit "A", is hereby approved.

Section 2. This Resolution shall take effect upon execution.

APPROVED this 17th day of June 2019, by the Board of County Commissioners, Flagler County, Florida.

BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA

ATTEST:

Donald T. O'Brien Jr., Chairman

Tom Bexley, Clerk of the Circuit Court and Comptroller

APPROVED AS TO FORM:

Al Hadeed, County Attorney
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<tr>
<td>2. CR 304 Resurfacing Segment 2 (SR 11 to US1)</td>
<td>11. Hammock Area Roadway Stabilization – 4.7 Miles</td>
<td>20. Old Kings Road South 4-Laning from SR 100 to Flagler County Line</td>
</tr>
<tr>
<td>3. CR 304 Resurfacing Segment 1 (CR 305 to SR 11)</td>
<td>12. Canal Avenue Paving from Forest Park Street to Coconut Boulevard</td>
<td>21. John Anderson Highway 4-Laning from SR 100 to Flagler County Line</td>
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<td>4. CR 205 Resurfacing Phase 2 (SR 100 to Private Dirt Road at M.P. 1.856)</td>
<td>13. Forest Park Street and County Road 35 Paving from SR 100 to End</td>
<td>22. St. Mary’s Place Paving and Drainage Improvements – Old Dixie Highway to End of Roadway</td>
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<td>8. Malacomprna Road Resurfacing</td>
<td>17. Canal Avenue and Water Oak Road Intersection Improvement</td>
<td>26. Westmayer Place Paving</td>
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<td>9. Durrance Lane Paving</td>
<td>18. Walnut Avenue Paving from Forest Park Street to Water Oak Road</td>
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1. **CR 304 Bridge Replacements**
   Construction phase for the replacement of four bridges along County Road 304. Bridge 734010 (Canal Structure) (estimated Construction Cost $1,500,000)
   Bridge 734011-(Middle Haw Creek), (estimated Construction Cost $4,500,000)
   Bridge 734012 (Sweetwater Branch) (estimated Construction Cost $3,100,000)
   Bridge 734013 (Parker Canal) (estimated Construction Cost $3,000,000)
   The project is currently in the design phase and is scheduled to be completed by the end of this fiscal year.

   Total Construction (4 bridges) $12,100,000
   Construction Engineering & Inspection $1,200,000

2. **County Road 304 Resurfacing Segment 2 (SR 11 to US1)**
   This project consists of roadway rehabilitation, resurfacing, widening, and associated stormwater improvements for CR 304 from SR11 to US1. This is an approximately 7.75 mile long project. The design was completed under SCOP Agreement FPN 435300-1-38-01.

   Construction $5,100,000
   Construction Engineering Inspection $250,000

3. **County Road 304 Resurfacing Segment 1 (CR 305 to SR11)**
   This project consists of roadway rehabilitating, resurfacing, widening, and improving stormwater management for CR 304 from CR 305 to SR11. This is an approximately 2.5 mile project. The design was completed was completed under SCOP Agreement FPN 435300-1-38-01.

   Construction $3,100,000
   Construction Engineering Inspection $155,000

4. **County Road 205 Resurfacing Phase 2 (SR 100 to Private Dirt Road at M.P. 1.856)**
   This project consists of roadway rehabilitating, resurfacing, and widening for an approximate 2 mile section of CR 205 from SR 100 to Private Road at Mile Post 1.856 (STA98+00). The design for both Phases 1&2 was funded under SCRAP Agreement FPN 433614-1-58-01 and was completed in 2016. Construction for Phase 1 was completed in 2018 under SCRAP Agreement FPN 433614-1-54-01.

   Construction $1,800,000
5. **Otis Stone Hunter Road**  
This project consists of paving and associated stormwater improvements of Otis Stone Hunter Road (CR1421) and Main Street from the intersection with CR 13 in Espanola to US1 in Flagler County. The total project length is approximately 2.7 miles. The project will include paving, milling and resurfacing of existing pavement, stormwater improvements, signage and pavement markings, and culvert replacement. The project is currently included in the 5 year work program to receive $415,000 for design in the State’s FY2020.

Construction $2,400,000  
Construction Engineering & Inspection $100,000

6. **Rima Ridge Resurfacing – (3.2 Miles)**

This project includes the construction of roadway and stormwater improvements within the Rima Ridge Subdivision, including Cone Road, Relay Road, Bareback Trail, Bridle Path Lane, Rodeo Road, Pinto Road, Pinto Lane, Oak Ridge Road, Sunny Road, Shadow Lane and Buckskin Lane.

Design Funding in the amount of $250,000 is included within the FDOT 5 year work program for FY 2021.

Construction/CEI - $3,750,000  
Total Estimated Project Cost - $4,000,000

7. **Armand Beach Roadway Improvements (2.05 miles)**

This project consists of roadway and associated stormwater improvements of approximately 2.05 miles of roadways in the Armand Beach Subdivision. Roadways include Solee Road, Armand Beach Drive, Mahoe Drive North, Mahoe Drive South, Cottonwood Trail, Susan Place, Rosemary Place, Laurel Drive, Laurel Lane, Willow Drive.

Design - $120,000  
Construction - $2,000,000  
Total Estimated Project Cost - $2,120,000

8. **Malacompra Road Resurfacing (Revised)**

This project consists of design and resurfacing of approximately 0.75 miles of roadway. The project includes paving, signing & pavement markings, stabilized shoulders, and minor stormwater management system improvements.

Design Funding in the amount of $120,000 is included within the FDOT 5 year work program for FY 2020.
9. **Durrance Lane Paving (2.5 miles)**

Paving of Durrance Lane from the Flagler County line to Shedd Lane with associated stormwater and roadway improvements.

- Design – $130,000
- Construction/CEI - $3,000,000
- Total Estimated Project Cost - $2,130,000

10. **East Daytona North Roadway Stabilization (23.75 miles)**

The project consists of regrading and stabilizing roadways in order to create a stable road base and reduce road maintenance costs. Roads will be widened to provide 10' to 12’ travel lanes, stabilized shoulders will be added, and some ditch/swales will be refurbished. Aspen Street, Poinsetta Street, Greenbriar Street, Pear Avenue, Citrus Avenue, Tangelo Avenue, Shady Lane, Sugarbush Street, Mistletoe Street, Arbor Avenue, Cranberry Avenue, Dogwood Street, Banana Street, Apple Street, Clove Avenue (both segments), Sherwood Street, Honeytree Street, BerryBush Street, Evergreen Avenue, Hickory Street (both segments), Grove Street, Blueberry Street, Fir Street, Fig Street, Fruitwood Avenue, Butternut Avenue, Oleander Avenue, Acorn Avenue, Greentree Street, Bamboo Street, Palmetto Street, Briarwood Street, Plum Avenue, Redwood Street, Rosewood Street, Hazlenut Street, Elder Street, Spruce Street, Mulberry Lane, Pecan Street, Pine Street, Peach Street, Candleberry Street, Satinwood Street, and Papaya Street are included.

- Construction - $3,325,000
- Total Estimated Project Cost - $3,325,000

11. **Hammock Area Roadway Stabilization ( approx. 5 miles)**

The project consists of regrading and stabilizing roadways in order to create a stable road base and reduce road maintenance costs. Roads will be widened, stabilized shoulders will be added, and some ditch/swales will be refurbished. Ocean Vista Lane, Johnson Beach Way, Cherokee Avenue, Seminole Avenue, 16th Road West, 17th Road, 18th Road, 19th Road, 20th Road, Likins Avenue, Carolina Highway, Debra Drive, Pamela Parkway, John Hershel Avenue East, James Roy Avenue West, Dawson Drive, Wayne Avenue, Weldon Way, Sanchez Avenue (both segments), and Hernandez Avenue are included.

- Design - $200,000
- Construction - $800,000
- Total Estimated Project Cost - $800,000
12. Canal Avenue Paving from Forest Park Street to Coconut Boulevard (2.5 miles)

This project consists of design and construction for the paving of a 2.5 mile long dirt road with 11-foot travel lanes and stabilized shoulders. The project includes paving, signing, pavement marking, and shoulder stabilizing. Drainage improvements could include swale and ditch modifications and culvert installation.

Design – $220,000
Construction – $2,200,000
Total Estimated Project Cost - $2,420,000

13. Forest Park Street and County Road 35 Paving from SR 100 to End (3.2 miles)

This project consists of paving of a 3.2 mile long dirt road with 11-foot travel lanes and stabilized shoulders. The project includes paving, signing, pavement marking, and shoulder stabilizing with associated stormwater improvements. Right-of-way acquisition is not anticipated.

Design – $280,000
Construction – $2,800,000
Total Estimated Project Cost - $3,080,000

14. West Flagler County Roadway Stabilization (14.75 miles)

The project consists of regrading and stabilizing roadways with a layer of shell material in order to create a stable road base and reduce road maintenance costs. Roads will be widened to provide 10’ to 12’ travel lanes, stabilized shoulders will be added, and some ditch/swales will be refurbished. Bimini Lane, Black Point Road, CR 35 from SR 100 to CR 302, CR 65 from CR 302 to CR 80, CR 80 from CR 75 to roadway end, CR 90 from CR 305 to CR 75, CR 125 from SR 11 to CR 135 North, CR 135 North from CR 140 to CR 304, CR 140 from SR 11 to CR 135 North, and Garden Lane are included.

Construction - $2,075,000
Total Estimated Project Cost - $2,075,000

15. West Daytona North Roadway Stabilization (24.1 miles)

The project consists of regrading and stabilizing roadways in order to create a stable road base and reduce road maintenance costs. Roads will be widened to provide 10’ to 12’ travel lanes, stabilized shoulders will be added, and some ditch/swales will be refurbished. Willow Lane, Maple Street, Lime Lane, Lime Avenue, Olive Avenue, Palm Avenue, Beech Boulevard (both segments), Cottonwood Street, Cinnamon Street, Cedar Street, Cherry Lane, Apricot Avenue, Lemon Street, Chestnut Avenue, Buckeye Lane, Cypress Avenue, Elm Avenue, Orange Street, Oak Street, Mangrove
Street, Ironwood Avenue, Logwood Lane, Mango Avenue, Nutwood Avenue, Royal Palm Drive, Pineapple Street, Tangerine Avenue, Birch Street, Balsa Street, Ash Street, Almond Street, Alder Avenue, Laurel Avenue, Holly Lane, Guava Lane, Basswood Avenue, Hibiscus Street, Sabal Palm Street, Persimmon Street, Orange Blossom Street, Coconut Boulevard (both segments), Bayberry Street, Sandalwood Lane, Sassafras Lane, and Fruit Avenue are included.

Construction - $3,375,000
Total Estimated Project Cost - $3,375,000


The project consists of regrading and stabilizing roadways in order to create a stable road base and reduce road maintenance costs. Roads will be widened to provide 10' to 12' travel lanes and stabilized shoulders will be included. CR 110 from CR 305 to CR 2007, CR 140 West from SR 11 to CR 135, CR 200 from US 1 to roadway end, CR 335 from Old Dixie Highway to roadway end are included.

Construction - $875,000
Total Estimated Project Cost - $875,000

17. Canal Avenue and Water Oak Road Intersection Improvement

The project consists of the relocation and improvement of an intersection at Canal Avenue and Water Oak Road. The existing intersection forces traffic from Daytona North to travel an additional 1/3 of a mile to access and forces traffic to U-turn in order to access SR 100 which is a designated evacuation route. Water Oak Road is the most direct route to SR 100 for residences on the west side of Daytona North.

PD&E - $400,000
Design – $400,000
Construction – $8,000,000
Total Estimated Project Cost - $8,800,000

18. Walnut Avenue Paving from Forest Park Street to Water Oak Road (2.75 miles)

This project consists of design and construction for the paving of a 2.75 mile long dirt road with stabilized shoulders. The project includes paving, signing, pavement marking, and shoulder stabilizing. Drainage improvements could include swale and ditch modifications and culvert installation. Right-of-way acquisition is not anticipated.

Design –$250,000
19. Jungle Hut Road Resurfacing

This project consists of design and resurfacing of approximately 0.75 miles of roadway. The project includes paving, signing & pavement markings, and stabilized shoulders.

Design - $120,000  
Construction - $1,200,000  
Total Estimated Project Cost - $1,320,000

20. Old Kings Road South 4-Laning from SR100 to Flagler County Line (3.8 miles)

The design, construction and CEI associated with widening Old Kings Road from the existing 2-lane paved roadway to a 4-lane roadway from SR 100 to the Flagler/Volusia County Line. Improvements to the existing stormwater system will be required as part of the project scope.

Design - $600,000  
Construction - $6,000,000  
Total Estimated Project Cost - $6,600,000

21. John Anderson Highway 4-Laning from SR100 to Flagler County Line (4.2 Miles)

The design, construction and CEI associated with widening John Anderson Highway from the existing 2-lane paved roadway to a 4-lane roadway from SR 100 to the Flagler/Volusia County Line. Improvements to the existing stormwater system will be required as part of the project scope.

Design - $450,000  
Construction - $4,500,000  
Total Estimated Project Cost - $4,950,000

22. St. Mary's Place Paving and Drainage Improvements – Old Dixie Highway to End of Roadway (0.2 miles)

This project consists of design and construction for the paving of a 0.2 mile long dirt road with 11-foot travel lanes and stabilized shoulders. The project includes paving, signing, pavement marking, and shoulder stabilizing. Drainage improvements could
include swale and ditch modifications and culvert installation. Right-of-way acquisition is not anticipated.

Design – $90,000  
Construction – $900,000  
Total Estimated Project Cost - $990,000

23. Old Kings Road North I-95 Overpass

Design, Permitting and Construction of the Old Kings Road North I-95 Overpass. Design of the new overpass will take into account pedestrian facilities and a wider typical roadway section.

Design - $1,200,000  
Wetland Mitigation - $800,000  
Construction - $11,900,000  
Total Estimated Project Cost - $13,900,000

24. John Anderson Highway Collector Roadway Resurfacing (1.5 Miles)

Resurfacing of collector roadways along John Anderson Highway. Roadways include Bulow Woods Cir, Trail Run, Indian Mound Ct, and Creek Bluff Run.

Design - $85,000  
Construction - $850,000  
Total Estimated Project Cost - $935,000

25. Seascape Drive Repaving and Reconstruction (0.23 Miles)

Project consists of design and construction for the milling and resurfacing, replacing signage, and striping for a 0.23 mile long roadway. Right-of-way acquisition is not anticipated.

Design - $50,000  
Construction - $400,000  
Total Estimated Project Cost - $450,000

26. Westmayer Place Paving (0.13 Miles)
Project consists of first time paving of an unpaved roadway with associated stormwater management system improvements, signage and striping for a 0.13 mile long roadway. Right-of-way acquisition is not anticipated.

Design - $50,000
Construction - $250,000
Total Estimated Project Cost - $300,000
SUBJECT: Consideration of Project Recommendations and Ranking of the FDOT Transportation Alternative Priorities for Fiscal Years 2020/2021 through 2024/2025.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: Each year the Florida Department of Transportation (FDOT) solicits local candidate projects for funding under its Transportation Alternatives program (TAP). TAP projects focus on improvements that create alternatives to transportation for the non-motorized user and enhancements to the transportation system for all users.

The projects have been ranked based on need as determined by County staff. We are requesting that the Board approve the rankings below.

Recommended FDOT Transportation Alternatives Priorities for Fiscal Years 2020/2021 through 2024/2025:

1. Bulow Creek Headwaters Regional Park
2. US 1 Trailhead for Lehigh Rail Trail
3. Multi-use (pedestrian, equestrian, bicycle) bridge over US1
4. Heritage Crossroads Interpretive Center
5. Intracoastal Observation Platform at Herschel King Park
6. Old Kings Road North Multi-Use Trail, Matanzas Woods Pkwy to I-95
7. Old Kings Road South Multi-Use Trail, SR 100 to Volusia County Line
8. John Anderson Highway Multi-Use Trail, SR 100 to Volusia County Line
9. US 1 Trail - Royal Palms to Palm Coast Parkway
10. US 1 Multi-Use Trail and Pedestrian Bridge

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Faith Alkhatib, P.E., County Engineer (386) 313-4045

RECOMMENDATIONS: Request the Board approve staff’s recommended FDOT Transportation Alternatives Program submittal for Fiscal Years 2020/2021 through 2024/2025.

ATTACHMENTS:
1. Resolution to approve Transportation Alternatives Program List with Exhibit
2. Transportation Alternative Program Project Descriptions
RESOLUTION NO. 2019-____

A RESOLUTION BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING THE PRIORITIZED LIST OF PROJECTS FOR INCLUSION IN THE FDOT TRANSPORTATION ALTERNATIVES PROGRAM AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Department of Transportation (FDOT) annually requests project priorities for inclusion in the FDOT Transportation Alternatives Program; and

WHEREAS, Flagler County desires to submit a prioritized list of projects for inclusion in the FDOT Transportation Alternatives Program.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Flagler County, Florida as follows:

Section 1. The prioritized list of projects for inclusion in the FDOT Transportation Alternatives Program, as attached hereto and incorporated herein by reference as Exhibit “A”, is hereby approved.

Section 2. This Resolution shall take effect upon execution.

APPROVED this 17th day of June 2019, by the Board of County Commissioners, Flagler County, Florida.

ATTEST: BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA

Tom Bexley, Clerk of the Circuit Court and Comptroller

Donald T. O'Brien Jr., Chairman

APPROVED AS TO FORM:

Al Hadeed, County Attorney
<table>
<thead>
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<th>Flagler County Transportation Alternatives Priorities - 2024/2025</th>
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<tr>
<td>1. Bulow Creek Headwaters Regional Park</td>
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<td>10. US 1 Multi-Use Trail and Pedestrian Bridge</td>
</tr>
</tbody>
</table>
Flagler County Proposed Priority List
Transportation Alternatives Program
FY 2020/2021 – 2024/2025

1. Bulow Creek Headwaters Regional Park

This project is to design and construct a proposed park at the Bulow creek headwaters. The proposed park will include bicycle trails, pedestrian trails, equestrian trails, and a canoe launch and trail.

Design – $700,000
Construction - $5,000,000
Total Estimated Project Cost - $5,700,000

2. US1 Trailhead for Lehigh Rail Trail

This project would provide parking and restroom facilities at the US1 termini of the Lehigh Rail Trail, which extends from US 1 to Colbert Lane.

Design - $200,000
Construction - $800,000
Total Estimated Project Cost - $1,000,000

3. Multi-use bridge over US1

This project consists of a bridge and a 1.4 mile multi-use trail that will connect the Florida Agricultural Museum to both Ranch House Grade and an existing 10-foot-wide multi-use trail along the west side of US 1.

Design - $550,000
Construction - $5,500,000
Total Estimated Project Cost - $6,050,000

4. Heritage Crossroads Interpretative Center

The proposed Welcome Center will be situated on acreage provided by the Florida Agricultural Museum as the required matching portion of local funds for the grant. This center will encourage visitation to the historical sites in Flagler County as part of the 92 miles of Heritage Crossroads historical pathways. The center will help educate residents and visitors about our local historic byways and show them the sites that helped to create Flagler County.

Design – $300,000
Construction - $2,000,000
Total Estimated Project Cost - $2,300,000
5. Intracoastal Observation Platform at Herschel King Park

This project will provide an observation deck (elevated boardwalk) for viewing wildlife at Herschel King Park. Additionally, the observation deck will make an excellent destination for the extensive trail system that includes Lehigh Trail, the trail system in Graham Swamp, and the sidewalks that parallel Colbert Lane and Grady Prather Road.

Design - $80,000
Construction - $400,000
Total Estimated Project Cost - $480,000

6. Old Kings Road North Multi-Use Trail, Matanzas Woods Pkwy to I-95

This project consists of 4.2 miles of multi-purpose paths on either side of Old Kings Road north from Matanzas Woods Parkway to US-1. The project will connect residential neighborhoods and publicly owned recreational lands along the corridor into the existing pedestrian trail on Matanzas Woods Parkway. The project will provide a paved multi-use path and a shell path on opposite sides of Old Kings Road for the project length.

Total Estimated Project Cost - $3,800,000

7. Old Kings Road South Multi-Use Trail, SR 100 to Volusia County Line

This project consists of 3.8 miles of paved multi-purpose path along Old Kings Road south from SR 100 south to the Flagler/Volusia County Line. The project will connect multiple residential neighborhoods and publicly owned recreational lands along the corridor into the path “backbone” on SR 100.

Total Estimated Project Cost - $2,300,000

8. John Anderson Highway Multi-Use Trail, SR 100 to Volusia County Line

This project consists of 4 miles of paved multi-purpose path along John Anderson Highway from SR 100 south to the Flagler/Volusia County Line.

Total Estimated Project Cost - $2,400,000

9. US 1 Trail, Royal Palms Parkway to Palm Coast Parkway

This project consists of 4.8 miles of paved multi-purpose path along SR 5 (US 1) from Royal Palms Parkway north to Palm Coast Parkway. The project will connect existing
trail/path end points and is planned to be completed in two (2) functional segments; Royal Palms Parkway to White View Parkway, and White View Parkway to Palm Coast Parkway.

Total Estimated Project Cost - $3,400,000

10. US 1 Multi-Use Trail and Pedestrian Bridge

This project would extend the Lehigh Trail to cross SR 5 US 1. Once at SR 5 US 1, pedestrians would be afforded safe access to the West side of SR 5 US 1 via a pedestrian bridge.

Design - $500,000
Construction - $5,000,000
Total Estimated Project Cost - $5,500,000
SUBJECT: Approval of Utility Easement Agreements with the City of Palm Coast for Water Main Extension to Airport Commons.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: Two Utility Easement Agreements – one for each of two, contiguous County-owned parcels – have been prepared to permit the extension of a water main within the County’s Flagler Executive Airport parcels (adjoining State Road 100) to serve the Airport Commons project:

These Utility Easement Agreements, both 15 feet in width – one for the East 121.11+/− feet adjoining State Road 100 in Parcel #07-12-31-0650-000D0-000A (identified in Exhibit “A” as Water Line Easement #2A), and the other for the West 241.68+/− feet adjoining State Road 100 in Parcel #07-12-31-0650-000D0-0011 (identified in Exhibit “A” as Water Line Easement #3). The two Utility Easement Agreements are needed to extend the City’s water main from the existing fire hydrant adjoining Airport Road in front of the Chamber building to Aviation Drive, a public right-of-way.
These easements are non-exclusive and perpetual in their duration, and indemnify the County from claims related to the utilities to be installed within the easements, with all construction and maintenance expenses related to the utility easements to be assumed by the City. Airport Commons has also agreed to bore under, as opposed to saw through, Aviation Drive. In addition, Airport Commons will give advance notification and coordinate with the Airport Director prior to commencing any work on Airport property.

These easements are consistent with Section 3.d. of the *Pre-Annexation, Economic Development and Joint Planning Agreement* – the three-party agreement between the City, the County, and Airport Commons – dated December 5, 2018 and recorded on January 10, 2019 at Official Records Book 2329, Page 927, Public Records of Flagler County, Florida. This Agreement requires the payment by Airport Commons of the City’s contributions-in-aid-of-construction (often referred to as utility impact fees) and connection fees.

**DEPARTMENT CONTACT:** Planning & Zoning, Adam Mengel (386) 313-4065

**RECOMMENDATION:** Approval by the Board of the Utility Easement Agreements with the City of Palm Coast.

**ATTACHMENTS:**
1. Utility Easement Agreement (Water Line Easement #2A)
2. Utility Easement Agreement (Water Line Easement #3)
UTILITY EASEMENT AGREEMENT

THIS UTILITY EASEMENT AGREEMENT ("Agreement") is made and entered into this _____ day of ____________, 2019, by and between FLAGLER COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 1769 East Moody Boulevard, Building 2, Suite 302, Bunnell, Florida 32110 ("Grantor") and the CITY OF PALM COAST, ("Grantee") whose address is 160 Cypress Point Parkway, Suite B-106, Palm Coast, FL  32164.

W I T N E S S E T H:

WHEREAS, Grantor is the owner of that certain real property located in Flagler County, Florida, known as the Flagler Executive Airport (the “Property”); and

WHEREAS, Grantor desires to grant and convey unto Grantee a non-exclusive public utility easement to, over, under, upon, across and through that certain portion of the Property which is described on Exhibit “A” attached hereto (hereinafter referred to as the “Easement Area”), for the construction, installation, operation, maintenance and repair by Grantee, or its employees, agents or designees, of public utility lines, mains, pipes, pumps, valves, wires, structures, electrical controls, cables and similar appurtenances (hereinafter referred to as the “Utilities”); and

WHEREAS, Grantor warrants that it has full authority to grant this easement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. Grant of Easement by Grantor. Grantor does hereby create, grant, convey and declare to exist a non-exclusive Easement to, over, under, upon, across and through the Easement Area for the purpose of construction, installation, operation, maintenance and repair of the Utilities, provided that all such Utilities shall be installed underground.
3. **Incidental Rights.** The Easement hereby created and granted includes the creation of all incidental rights reasonably necessary for the use and enjoyment of the Easement Area for its intended purposes, including, specifically, the right of entry for purposes of construction, installation, operation, maintenance and repair of any Utilities located within the Easement Area.

4. **Construction and Maintenance.** Grantee shall bear the entire cost and expense of any construction, repair, alteration, replacement or removal activities performed within the Easement Area. The Grantee shall also, at Grantee’s cost and expense, restore the Property and Easement Area to the condition which existed prior to any such construction, repair, alteration, replacement or removal activities, including but not limited to, revegetation, resodding, repaving, or removal of debris or dirt caused by or resulting from such activities.

5. **Indemnification.** Subject to the limits of liability set for in Section 768.28, Florida Statutes, Grantee covenants and agrees to indemnify, defend, protect and hold harmless Grantor, its officers, agents and employees for, from and against all claims and all costs, losses, damages, assessments, fines, penalties and other expenses, and liabilities (including reasonable attorneys’ fees, costs and expenses of litigation and appeal) incurred in connection with or resulting from the negligence or intentional misconduct of Grantee, its successors, assigns, or employees, in the construction, operation, maintenance, repair or replacement of the Utilities or from premises liability imposed upon Grantor in whole or in part because of the ongoing existence of the Utilities to be constructed and operated pursuant to this Agreement.

Grantee acknowledges the receipt and sufficiency of specific valuable consideration and other benefits accruing to Grantee in exchange for the Grantee’s obligations to indemnify for personal injury, death or property damage.

These covenants, obligations and indemnifications shall survive the termination or abandonment of this Agreement.

6. **Use.** Use of the Easement Area and entry upon the Property will at all times conform to and comply with the terms of this Easement and all applicable governmental regulations now in existence or hereafter created.

7. **Duration.** The Easement hereby granted and conveyed to, over, under, upon, across, and through the Easement Area shall be perpetual in duration.

8. **Warranty of Title.** Grantor hereby warrants that: (i) Grantor owns the fee simple title to the Property, (ii) Grantor has good right and lawful authority to convey the Easement granted herein, and (iii) the Property is not encumbered by any mortgages or other matters which would prohibit the use of the Easement Area for the purposes contemplated herein.

9. **Litigation and Attorneys Fees.** In the event it shall be necessary for Grantor or Grantee to bring suit for specific performance or damages or to enforce any provision hereof, the prevailing party in any such litigation and any appeals therefrom shall be entitled to recover from the other party, in addition to any damages or other relief granted as a result of such litigation, all costs or expenses of such litigation and its reasonable attorneys’ fees and paralegals’ fees as fixed by the Court.
10. **Governing Law.** The Easement shall be governed by and construed in accordance with the laws of the State of Florida.

11. **Recordation.** The original of this Agreement shall be recorded in the Public Records of Flagler County, Florida, at the expense of the Grantee.

12. **Binding Covenant.** The covenant and rights set forth in this Agreement shall run with the title to the lands described in Exhibit “A” and the benefits and burdens hereof shall bind and inure to the benefit of all successors in interest to the parties hereto.

[Signature Pages To Follow]
IN WITNESS WHEREOF, Grantor and Grantee have caused this Utility Easement to be executed in manner and form sufficient to bind them as of the date and year first above written.

ATTEST:

Tom Bexley, Clerk of the Circuit Court and Comptroller 

Date:______________________, 2019

GRANTOR

FLAGLER COUNTY

By:______________________ 

Donald T. O’Brien Jr., Chair 

Board of County Commissioners

Approved as to form:

Al Hadeed, County Attorney
WITNESSES:  
________________________________  
________________________________  
(print)  

GRANTEE  
CITY OF PALM COAST  
By:________________________________  
Matthew Morton, City Manager  
________________________________  
ATTEST:  
________________________________  
(print)  
City Clerk  

STATE OF FLORIDA  
COUNTY OF FLAGLER  

The foregoing instrument was acknowledged before me this _______ day of ____________ , 2019, by Matthew Morton, City Manager of the City of Palm Coast, Florida, who is personally known to me.  

________________________________  
Notary Public – State of Florida  
Print Name:______________________  
My Commission expires:__________
EXHIBIT “A”

EASEMENT AREA
SKETCH AND LEGAL DESCRIPTION ON FOLLOWING 2 PAGES
LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF TRACT 12, BLOCK D, GOVERNMENT SECTION 7, TOWNSHIP 12 SOUTH, RANGE 31 EAST, MAP OF THE BUNNELL DEVELOPMENT COMPANY'S LAND AT BUNNELL, FLORIDA, AS RECORDED IN MAP BOOK 1, PAGE 1, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, AND ALSO BEING A PORTION OF FLAGLER COUNTY TAX IDENTIFICATION PARCEL 07-12-31-0650-00000-000A PER THE PUBLIC RECORDS OF SAID FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF REFERENCE BEING THE EAST QUARTER CORNER OF SAID SECTION 7, TOWNSHIP 12 SOUTH, RANGE 31 EAST, THENCE SOUTH 01°13'43" EAST ALONG THE EAST LINE OF SECTION 7, FOR A DISTANCE OF 161.99 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200-FOOT WIDE PUBLIC RIGHT-OF-WAY AT THIS POINT); THENCE DEPARTING THE EAST LINE OF SAID SECTION 7, SOUTH 89°09'05" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 100 FOR A DISTANCE OF 86.00 FEET TO THE EASTERLY LINE OF SAID PARCEL 07-12-31-0650-00000-000A (SAME BEING THE WESTERNLY RIGHT-OF-WAY LINE OF AVIATION DRIVE, AN 80-FOOT WIDE PUBLIC RIGHT-OF-WAY) TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH 01°13'43" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 15.00 FEET; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE SOUTH 89°09'05" WEST FOR A DISTANCE OF 128.64 FEET MORE OR LESS TO THE WESTERLY LINE OF SAID PARCEL; THENCE NORTH 44°50'49" EAST ALONG SAID WESTERLY LINE FOR A DISTANCE OF 21.48 FEET, RETURNING TO THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100; THENCE DEPARTING SAID WESTERLY LINE, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE NORTH 89°09'05" EAST FOR A DISTANCE OF 113.38 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE DESCRIBED PARCEL CONTAINS 1,816 SQUARE FEET, MORE OR LESS.

SURVEYOR'S NOTES

1. Bearings based on the south right-of-way line of State Road 100, having a bearing of north 89°09'05" east.
2. There may be additional easements, restrictions and/or other matters not shown on this sketch which may be found in the public records of Flagler County, Florida.
3. This sketch complies with the standards of practice set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17.05, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.
4. This sketch is not valid without the signature and original raised seal of a Florida licensed surveyor/mapper.
5. Underground foundations and utilities (if any) not shown hereon.
6. This is a graphic illustration for informational purposes only and is not intended to depict a field survey.

ABBREVIATIONS/LEGEND

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CERTIFIED TO:

CITY CONSTRUCTION
LIVINGSTON AND SWORD

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS PER CHAPTER 5J-17.050 THRU 17.052, FLORIDA ADMINISTRATIVE CODE.

Kenneth J Kuhar
Digitally signed by Kenneth J Kuhar
Date: 2018.11.27
15:30:21 -05'00'

KENNETH J. KUHAR
FLORIDA PROFESSIONAL SURVEYOR/MAPPER #6105

KUHAR SURVEYING & MAPPING, LLC
1501 RIDGEMOOD AVENUE, SUITE 205, HOLLY HILL, FLORIDA 32117
Phone: 386-672-0002 386-295-8051 WWW.KUHARSURVEYING.COM

SKETCH OF DESCRIPTION

DATE: 11/21/2018
PROJECT: K17141
FILE: K17141 SD WATER 2A.DWG
FIELD BOOK: PAGE
SHEET 2 OF 2 1" = 150'
UTILITY EASEMENT AGREEMENT

THIS UTILITY EASEMENT AGREEMENT ("Agreement") is made and entered into this ______ day of _____________, 2019, by and between FLAGLER COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 1769 East Moody Boulevard, Building 2, Suite 302, Bunnell, Florida 32110 ("Grantor") and the CITY OF PALM COAST, ("Grantee") whose address is 160 Cypress Point Parkway, Suite B-106, Palm Coast, FL  32164.

WITNESSETH:

WHEREAS, Grantor is the owner of that certain real property located in Flagler County, Florida, known as the Flagler Executive Airport (the “Property”); and

WHEREAS, Grantor desires to grant and convey unto Grantee a non-exclusive public utility easement to, over, under, upon, across and through that certain portion of the Property which is described on Exhibit “A” attached hereto (hereinafter referred to as the “Easement Area”), for the construction, installation, operation, maintenance and repair by Grantee, or its employees, agents or designees, of public utility lines, mains, pipes, pumps, valves, wires, structures, electrical controls, cables and similar appurtenances (hereinafter referred to as the “Utilities”); and

WHEREAS, Grantor warrants that it has full authority to grant this easement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. Grant of Easement by Grantor. Grantor does hereby create, grant, convey and declare to exist a non-exclusive Easement to, over, under, upon, across and through the Easement Area for the purpose of construction, installation, operation, maintenance and repair of the Utilities, provided that all such Utilities shall be installed underground.
3. **Incidental Rights.** The Easement hereby created and granted includes the creation of all incidental rights reasonably necessary for the use and enjoyment of the Easement Area for its intended purposes, including, specifically, the right of entry for purposes of construction, installation, operation, maintenance and repair of any Utilities located within the Easement Area.

4. **Construction and Maintenance.** Grantee shall bear the entire cost and expense of any construction, repair, alteration, replacement or removal activities performed within the Easement Area. The Grantee shall also, at Grantee’s cost and expense, restore the Property and Easement Area to the condition which existed prior to any such construction, repair, alteration, replacement or removal activities, including but not limited to, revegetation, resodding, repaving, or removal of debris or dirt caused by or resulting from such activities.

5. **Indemnification.** Subject to the limits of liability set forth in Section 768.28, Florida Statutes, Grantee covenants and agrees to indemnify, defend, protect and hold harmless Grantor, its officers, agents and employees for, from and against all claims and all costs, losses, damages, assessments, fines, penalties and other expenses, and liabilities (including reasonable attorneys’ fees, costs and expenses of litigation and appeal) incurred in connection with or resulting from the negligence or intentional misconduct of Grantee, its successors, assigns, or employees, in the construction, operation, maintenance, repair or replacement of the Utilities or from premises liability imposed upon Grantor in whole or in part because of the ongoing existence of the Utilities to be constructed and operated pursuant to this Agreement.

Grantee acknowledges the receipt and sufficiency of specific valuable consideration and other benefits accruing to Grantee in exchange for the Grantee’s obligations to indemnify for personal injury, death or property damage.

These covenants, obligations and indemnifications shall survive the termination or abandonment of this Agreement.

6. **Use.** Use of the Easement Area and entry upon the Property will at all times conform to and comply with the terms of this Easement and all applicable governmental regulations now in existence or hereafter created.

7. **Duration.** The Easement hereby granted and conveyed to, over, under, upon, across, and through the Easement Area shall be perpetual in duration.

8. **Warranty of Title.** Grantor hereby warrants that: (i) Grantor owns the fee simple title to the Property, (ii) Grantor has good right and lawful authority to convey the Easement granted herein, and (iii) the Property is not encumbered by any mortgages or other matters which would prohibit the use of the Easement Area for the purposes contemplated herein.

9. **Litigation and Attorneys Fees.** In the event it shall be necessary for Grantor or Grantee to bring suit for specific performance or damages or to enforce any provision hereof, the prevailing party in any such litigation and any appeals therefrom shall be entitled to recover from the other party, in addition to any damages or other relief granted as a result of such litigation, all costs or expenses of such litigation and its reasonable attorneys’ fees and paralegals’ fees as fixed by the Court.
10. **Governing Law.** The Easement shall be governed by and construed in accordance with the laws of the State of Florida.

11. **Recordation.** The original of this Agreement shall be recorded in the Public Records of Flagler County, Florida, at the expense of the Grantee.

12. **Binding Covenant.** The covenant and rights set forth in this Agreement shall run with the title to the lands described in Exhibit “A” and the benefits and burdens hereof shall bind and inure to the benefit of all successors in interest to the parties hereto.

[Signature Pages To Follow]
IN WITNESS WHEREOF, Grantor and Grantee have caused this Utility Easement to be executed in manner and form sufficient to bind them as of the date and year first above written.

ATTEST:

Tom Bexley, Clerk of the Circuit Court and Comptroller

Date:_______________________, 2019

By:________________________
Donald T. O’Brien Jr., Chair
Board of County Commissioners

GRANTOR

FLAGLER COUNTY

Approved as to form:

Al Hadeed, County Attorney
WITNESSES:

________________________________
________________________________
(print)
________________________________
________________________________
(print)

GRANTEE
CITY OF PALM COAST

By: Matthew Morton, City Manager

ATTEST:

(print)
City Clerk

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this _____ day of __________, 2019, by Matthew Morton, City Manager of the City of Palm Coast, Florida, who is personally known to me.

Notary Public – State of Florida
Print Name: _______________________
My Commission expires:
EXHIBIT “A”

EASEMENT AREA
SKETCH AND LEGAL DESCRIPTION ON FOLLOWING 2 PAGES
EXISTING HYDRANT

FLAGLER COUNTY PARCEL
#07-12-31-065 0-000DO-0001

FLAGLER COUNTY

POINT OF BEGINNING

S. R/W LINE
STATE ROAD 100
N 89°09'05" E
249.35'

N 89°09'05" E
234.01'

NORTHEAST CORNER

N 89°09'05" E
193.38'

15' EASEMENT LINE

STATE ROAD 100
(200' RIGHT-OF-WAY)

WATER LINE EASEMENT #3

1/2 SEC LINE OF SEC 8 TWP 12 S RGE 31 E

STATE ROAD 100
(200' RIGHT-OF-WAY)

N89°09'05"E 529.36'

WORK IN PROGRESS

SCALE 1" = 150'

FOR LEGAL DESCRIPTION, LEGEND, NOTES, SIGNATURE AND SEAL, SEE SHEET 2 OF 2

KUHAR SURVEYING & MAPPING, LLC

1501 RIDGEWOOD AVENUE, SUITE 205, HOLLY HILL, FLORIDA 32117
Phone: 386-672-0002 386-295-8051  WWW.KUHARSURVEYING.COM
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SKETCH OF DESCRIPTION

DATE: 04/06/2017
PROJECT: K17141
FILE: K17141 SD WATER 1.DWG
FIELD BOOK: PAGE:

SHEET 1 OF 2 1" = 150'
LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF TRACT 12, BLOCK D, GOVERNMENT SECTION 7, TOWNSHIP 12 SOUTH, RANGE 31 EAST, MAP OF THE BUNNELL DEVELOPMENT COMPANY'S LAND AT BUNNELL, FLORIDA, AS RECORDED IN MAP BOOK 1, PAGE 1, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, AND ALSO BEING A PORTION OF FLAGLER COUNTY TAX IDENTIFICATION PARCEL 07-12-31-0650-00000-0011 PER THE PUBLIC RECORDS OF SAID FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF REFERENCE BEING THE EAST QUARTER CORNER OF SAID SECTION 7, TOWNSHIP 12 SOUTH, RANGE 31 EAST, THENCE SOUTH 01°13'43" EAST ALONG THE EAST LINE OF SECTION 7, FOR A DISTANCE OF 181.99 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200-FOOT WIDE PUBLIC RIGHT-OF-WAY AT THIS POINT); THENCE DEPARTING SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH 44°50'49" WEST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 FOR A DISTANCE OF 193.38 FEET MORE OR LESS TO THE EASTERLY LINE OF SAID PARCEL 07-12-31-0650-00000-0011 (SAME BEING THE WESTERLY LINE OF PARCEL 07-12-31-0650-00000-0000A) AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH 44°50'49" WEST ALONG SAID EASTERLY LINE OF SAID PARCEL 07-12-31-0650-00000-0011, FOR A DISTANCE OF 21.48 FEET; THENCE DEPARTING SAID EASTERLY LINE SOUTH 89°09'05" WEST FOR A DISTANCE OF 214.01 FEET; THENCE S00°44'42"E FOR A DISTANCE OF 60.00 FEET; THENCE S89°02'05"W FOR A DISTANCE OF 20.00 FEET MORE OR LESS TO THE WESTERLY LINE OF SAID PARCEL; THENCE NORTH 00°44'42"W ALONG SAID WESTERLY LINE FOR A DISTANCE OF 75.00 FEET, RETURNING TO THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100; THENCE DEPARTING SAID WESTERLY LINE, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE NORTH 89°09'05" EAST FOR A DISTANCE OF 249.35 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE DESCRIBED PARCEL CONTAINS 4,825 SQUARE FEET, MORE OR LESS.

SURVEYOR'S NOTES

1. BEARINGS BASED ON THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 100, HAVING A BEARING OF NORTH 89°09'05" EAST.
2. THERE MAY BE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN ON THIS SKETCH WHICH MAY BE FOUND IN THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.
3. THIS SKETCH COMPLIES WITH THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17.05, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.
4. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR/MAPPER.
5. UNDERGROUND FOUNDATIONS AND UTILITIES (IF ANY) NOT SHOWN HEREON.
6. THIS IS A GRAPHIC ILLUSTRATION FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO DEPICT A FIELD SURVEY.

ABBREVIATIONS/LEGEND

E - CENTERLINE
MB - MAP BOOK
ORB - OFFICIAL RECORDS BOOK
PG - PAGE
RED - RECORD
(M) - MEASURED DATA
(DESC) - DESCRIPTION DATA
(P) - PLAN DATA
(C) - CALCULATED DATA
E - EAST
WLY - WESTERLY
NLY - NORTHERLY
SLY - SOUTHERLY
R/W - RIGHT OF WAY
PSM - PROFESSIONAL SURVEYOR & MAPPER
LB - LICENSED BUSINESS
YP - TYPICAL
SEC - SECTION
TWP - TOWNSHIP
RGE - RANGE

REVISED 12/10/2018

CERTIFIED TO:

CITY CONSTRUCTION
LIVINGSTON AND SWORD

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS PER CHAPTER 5J-17.050 THRU 17.052, FLORIDA ADMINISTRATIVE CODE.

Kenneth J Kuhar

Digitally signed by Kenneth J Kuhar
Date: 2018.12.10
11:00:25 -05'00'

KUHAR SURVEYING & MAPPING, LLC
1501 RIDGEWOOD AVENUE, SUITE 205, HOLLY HILL, FLORIDA 32117
Phone: 386-672-0002  386-295-8051  WWW.KUHARSURVEYING.COM

SKETCH OF DESCRIPTION
DATE: 11/21/2018
PROJECT: K17141
FILE: K17141 SD WATER 3.DWG
FIELD BOOK: PAGE
SHEET 2 OF 2 1" = 150'
SUBJECT: Consideration of Project Partnership Agreement Between the Department of the U.S. Army Corps of Engineers and Flagler County for the Coastal Storm Risk Management Project.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: The subject project will include the design and construction of the "Recommended Plan" as defined within the “Florida Hurricane and Storm Damage Reduction Project, Final Integrated Feasibility Study and Environmental Assessment” prepared by the U.S. Army Corps of Engineers (July 2014). The plan originally consisted of constructing a ten (10) foot dune extension but post Hurricane Matthew the plan has enlarged to re-construction of the damaged dune feature in many cases. The planned initial sand placement quantity is 500,000 cubic yards from a sand borrow area located approximately seven (7) miles offshore in Federal waters. The project will be constructed between South 6th Street and South 28th Street, in the vicinity of Florida Department of Environmental Protection reference monuments between R80 and R94, in Flagler Beach. The Overview, Economic and Cost Analysis and Environmental Benefit of the Project are summarized in Attachment No. 1.

At the December 4, 2018, Workshop with the Board of County Commissioners and the City of Flagler Beach Commission, the Army Corps of Engineers provided an update on the Project progress and status. Congress authorized the project in 2016 and the Federal funds for design and construction were received in 2018. A summary of “what’s next” events, the obligations of both the Federal Government and Non-Federal Sponsor (Flagler County) and the project production schedule were also provided.

Subsequently, a Project Partnership Agreement (PPA) that will formalize the commitments and obligations of the Federal Government and Flagler County has been prepared and is presented in Attachment No. 2.

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Public Works Director and County Engineer, Faith Alkhatib (386) 313-4045

RECOMMENDATION: Request the Board review the PPA; authorize the Chair to execute the PPA as approved as to form by the County Attorney and approved by the County Administrator; and authorize staff to schedule a signing ceremony meeting of the Board of County Commissioners and Army Corps of Engineers representatives to jointly execute multiple originals of the actual PPA.

ATTACHMENTS:
1. Project Summary
2. Project Partnership Agreement (PPA)
PROJECT OVERVIEW: BY ALL ACCOUNTS, A PROJECT IN THE NATIONAL INTEREST

The Flagler County Hurricane and Storm Damage Reduction Project is located along the shoreline that experiences above average erosion rates and storm impacts that have challenged the county and the state since 1964 when Hurricane Dora devastated the east coast of Florida. The project sponsor is Flagler County.

National Economic Development (NED) and Other Social Effects (OSE) Accounts: This project will reduce damages by 95% over the 50-year period of Federal participation and produce $1,168,000 in average annual benefits. The project’s 10-foot beach and dune profile extension focuses on a 2.6 mile stretch of mostly armored shoreline adjacent to SR A1A that if left without a comprehensively designed project, will jeopardize the health, safety and welfare of a community by exposing a major hurricane evacuation and recovery route for over 14,000 people to continued degradation and temporary relocations. Both response and recovery emergency efforts are affected by the condition of this critical infrastructure (roadway evacuation route) that serves as the primary means of ingress and egress for the community.

Regional Economic Development Account (RED): The project provides for ~3.15 acres of habitat for threatened and endangered species, and other wildlife, that would otherwise be “0” in the future without-project condition. Examples of endangered species include leatherback and green sea turtles, as well as piping plovers.

Environmental Quality Account (EQ): The project facilitates the continuity of a culturally and historically significant national and state scenic byway that extends north from the nation’s oldest continuously inhabited European settlement in St. Augustine to the Gamble Rogers State Park in southern Flagler County. The passive recreation provided by this scenic byway fosters international, national, and regional tourism, as well as the economic vitality of the local community. In Flagler County, SR A1A provides public access to a viewshed of the Atlantic Ocean unhindered by development, a unique characteristic in community development today.

ECONOMIC AND COST ANALYSIS

- BCR: 1.9 with a 3.5% discount rate
- Average Annual Net Benefits: $1,168,000
- Total Federal Cost: $24,608,300
- Total Non-federal Cost: $20,353,700

**ECONOMIC SUMMARY**

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<th>Description</th>
<th>Amount</th>
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<td>Average Annual Investment Cost</td>
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<td>Annual OMRR&amp;R (100% Non-Federal)</td>
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<tr>
<td>Total Average Annual Cost</td>
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<tr>
<td>Average Annual Storm Damage Reduction Benefits</td>
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<tr>
<td>Average Annual Recreation Benefits</td>
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<tr>
<td>Average Annual Traffic Re-route Benefits</td>
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<tr>
<td>Average Annual Total Benefits</td>
<td>$2,407,000</td>
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<tr>
<td>Average Annual Net Benefits</td>
<td>$1,168,000</td>
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<tr>
<td>Benefit Cost Ratio (3.5% discount rate)</td>
<td>1.9</td>
</tr>
</tbody>
</table>

ENIRONMENT

Recommended plan provides ~3.15 acres of habitat that would otherwise be “0” in the future without-project condition:
- Habitat for Threatened and Endangered Species: Sea turtles (Leatherback, Green, and Loggerhead) and shorebirds (e.g., Piping Plover)
- Increased Biodiversity: Dune vegetation will provide for foraging, nesting and shelter for a variety of wildlife
- Compatible Sand Available for the Life of the Project: The right sand is important for the constructed beach to perform properly as well as for habitat such as for nesting sea turtles.
- No mitigation is required of the project.

THE RECOMMENDED PLAN

- 2.6 mile 10-foot dune and beach profile extension
- 11-year average nourishment interval (initial +4 renourishments)
- 320,000 cubic yards/average nourishment
- Borrow area (7 miles offshore) with compatible sand for 50-year project life
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE FLAGLER COUNTY, FLORIDA
FOR
THE FLAGLER COUNTY, FLORIDA
COASTAL STORM RISK MANAGEMENT PROJECT

THIS AGREEMENT is entered into this ________ day of ________, 2019, by and between the Department of the Army (hereinafter the “Government”), represented by the [District Commander for Jacksonville District and the Flagler County, Florida (hereinafter the “Non-Federal Sponsor”), represented by its County Chairman.

WITNESSETH, THAT:

WHEREAS, construction of the Flagler County, Florida Coastal Storm Risk Management Project (hereinafter the “Project”, as defined in Article I.A. of this Agreement) was authorized by Section 1401(3)(2) of the Water Resources Development Act of 2016, Public Law 114-322;

WHEREAS, Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213), specifies the cost-sharing requirements applicable to the Project;

WHEREAS, to the extent that appropriations provided under the Construction heading, Title IV, Division B of the Bipartisan Budget Act of 2018, Public Law 115-123 enacted February 9, 2018 (hereinafter “BBA 2018”), are available and used to undertake construction of the Project, the Government is authorized to finance the non-Federal cash contributions required for initial construction of the Project, currently estimated at $2,490,000 in accordance with the provisions of Section 103(k) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(k)), with the interest rate for deferred payments determined in accordance with Section 106 of the Water Resources Development Act of 1986 (33 U.S.C. 2216);

WHEREAS, the provisions of Section 902 of the Water Resources Development Act of 1986, as amended, do not apply to the funds provided in BBA 2018 that will be used for initial construction of the Project;

WHEREAS, 33 U.S.C. 701h authorizes the Government to undertake, at the Non-Federal Sponsor’s full expense, additional work while the Government is carrying out the Project; and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement and acknowledge that Section 221 of the Flood Control Act of 1970, as amended (42 U.S.C.1962d-5b), provides that this Agreement shall be enforceable in the appropriate district court of the United States.
NOW, THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

A. The term “Project” means a dune and beach profile extension along 2.6 miles of shoreline in Flagler Beach, Florida including construction of an approximately 10-foot equilibrated berm extension from +8.0 foot 1988 North Atlantic Vertical Datum contour from Florida Department of Environmental Protection monuments R80 to R94 with subsequent periodic renourishments, as generally described in the Flagler County, Florida Hurricane and Storm Damage Reduction Project, Final Integrated Feasibility Study and Environmental Assessment, dated September 2014 and approved by the Chief of Engineers on December 23, 2014 (hereinafter the “Decision Document”).

B. The term “periodic nourishment” means the placement of suitable beach berm material after initial construction of the Project, at appropriate intervals during the 50-year period of Federal participation that begins on the date of initiation of construction of the Project, as generally described in the Decision Document.

C. The term “construction costs” means all costs incurred by the Government and Non-Federal Sponsor in accordance with the terms of this Agreement that are directly related to design and construction of the Project and cost shared. The term includes, but is not necessarily limited to: the Government’s costs of engineering, design, and construction; the Government’s supervision and administration costs; the Government’s costs of monitoring; the Non-Federal Sponsor’s creditable costs for providing real property interests, placement area improvements, and relocations and for providing in-kind contributions, if any; and the costs of historic preservation activities except for data recovery for historic properties. The term does not include any costs for operation, maintenance, repair, rehabilitation, or replacement; dispute resolution; participation by the Government and the Non-Federal Sponsor in the Project Coordination Team to discuss significant issues and actions; audits; betterments; or additional work; or the Non-Federal Sponsor’s cost of negotiating this Agreement.

D. The term “real property interests” means lands, easements, and rights-of-way, including those required for relocations and borrow and dredged material placement areas. Acquisition of real property interests may require the performance of relocations.

E. The term “relocation” means the provision of a functionally equivalent facility to the owner of a utility, cemetery, highway, railroad, or public facility when such action is required in accordance with applicable legal principles of just compensation. Providing a functionally equivalent facility may include the alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

F. The term “placement area improvements” means the improvements required on real property interests to enable the ancillary placement of material that has been dredged or excavated during construction, operation, and maintenance of the Project, including, but not
limited to, retaining dikes, wasteweirs, bulkheads, embankments, monitoring features, stilling basins, and de-watering pumps and pipes.

G. The term “functional portion thereof” means a portion of the Project that has been completed and that can function independently, as determined in writing by the District Commander for Jacksonville District (hereinafter the “District Commander”), although the remainder of the Project is not yet complete.

H. The term “in-kind contributions” means those materials or services provided by the Non-Federal Sponsor that are identified as being integral to the Project by the Division Commander for South Atlantic Division (hereinafter the “Division Commander”). To be integral to the Project, the material or service must be part of the work that the Government would otherwise have undertaken for design and construction of the Project. The in-kind contributions also include any investigations performed by the Non-Federal Sponsor to identify the existence and extent of any hazardous substances that may exist in, on, or under real property interests required for the Project.

I. The term “betterment” means a difference in construction of an element of the Project that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to construction of that element.

J. The term “fiscal year” means one year beginning on October 1st and ending on September 30th of the following year.

K. The term “additional work” means items of work related to, but not cost shared as a part of, the Project that the Government will undertake on the Non-Federal Sponsor’s behalf while the Government is carrying out the Project, with the Non-Federal Sponsor responsible for all costs and any liabilities associated with such work.

L. The term “Maximum Cost Limit” means the statutory limitation on the total cost of periodic nourishment for the Project, as determined by the Government in accordance with Section 902 of the Water Resources Development Act of 1986, as amended, and Government regulations issued thereto.

ARTICLE II - OBLIGATIONS OF THE PARTIES

A. In accordance with Federal laws, regulations, and policies, the Government shall design and construct the Project, with initial construction undertaken using BBA 2018 funds to the extent they are available for that purpose and with periodic renourishment subject to receiving funds appropriated by the Congress and funds provided by the Non-Federal Sponsor.

B. The Non-Federal Sponsor shall contribute 35 percent of construction costs for initial construction of the Project, and 50 percent of construction costs for periodic nourishment, allocated by the Government to coastal storm risk management; and 100 percent of construction
costs allocated by the Government to beach improvements with exclusively private benefits, as follows:

1. In accordance with Article III, the Non-Federal Sponsor shall provide the real property interests, placement area improvements, and relocations required for construction, operation, and maintenance of the Project. If the Government determines that the Non-Federal Sponsor’s estimated credits for real property interests, placement area improvements, and relocations will exceed 35 percent of construction costs for initial construction or 50 percent of construction costs for periodic nourishment allocated to coastal storm risk management, the Government, in its sole discretion, may acquire any of the remaining real property interests, construct any of the remaining placement area improvements, or perform any of the remaining relocations with the cost of such work included as a part of the Government’s cost of construction. Nothing in this provision affects the Non-Federal Sponsor’s responsibility under Article IV for the costs of any cleanup and response related thereto.

2. In providing in-kind contributions, if any, the Non-Federal Sponsor shall obtain all applicable licenses and permits necessary for such work. As functional portions of the work are completed, the Non-Federal Sponsor shall begin operation and maintenance of such work. Upon completion of the work, the Non-Federal Sponsor shall so notify the Government within 30 calendar days and provide the Government with a copy of as-built drawings for the work.

3. For initial construction of the Project, after considering the estimated amount of credit that will be afforded to the Non-Federal Sponsor pursuant to paragraphs B.1. and B.2., above, the Government shall determine the cash contributions that otherwise would have been required from the Non-Federal Sponsor to meet its cost share for construction costs allocated to coastal storm risk management. To the extent BBA 2018 funds are available for initial construction of the Project, the Government, in accordance with the provisions of Article VI.B., may defer payment of the cash contributions that the Non-Federal Sponsor would have otherwise been required to provide during initial construction of the Project in order to meet its cost share. However, for construction costs allocated to beach improvements with exclusively private benefits, the Non-Federal Sponsor, in accordance with Article VI.D., must provide funds sufficient to cover the costs of such work in advance of the Government performing the work.

4. For each cycle of periodic nourishment, after considering the estimated amount of credit that will be afforded to the Non-Federal Sponsor pursuant to paragraphs B.1. and B.2., above, the Government shall determine the estimated amount of funds required from the Non-Federal Sponsor for the then-current fiscal year.

   a. No later than 120 calendar days after receipt of notification from the Government, the Non-Federal Sponsor shall provide the full amount of such funds to the Government in accordance with Article VI.C. For construction costs allocated to beach improvements with exclusively private benefits, the Non-Federal Sponsor, in accordance with Article VI.D., must provide funds sufficient to cover the costs of such work in advance of the Government performing the work.
b. No later than August 1st prior to each subsequent fiscal year during a cycle of periodic nourishment, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. Not later than September 30th prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government in accordance with Article VI.C.

C. To the extent practicable and in accordance with Federal law, regulations, and policies, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on solicitations for contracts, including relevant plans and specifications, prior to the Government’s issuance of such solicitations; proposed contract modifications, including change orders; and contract claims prior to resolution thereof. Ultimately, the contents of solicitations, award of contracts, execution of contract modifications, and resolution of contract claims shall be exclusively within the control of the Government.

D. The Government, as it determines necessary, shall undertake actions associated with historic preservation, including, but not limited to, the identification and treatment of historic properties as those properties are defined in the National Historic Preservation Act (NHPA) of 1966, as amended. All costs incurred by the Government for such work (including the mitigation of adverse effects other than data recovery) shall be included in construction costs and shared in accordance with the provisions of this Agreement. If historic properties are discovered during construction and the effect(s) of construction are determined to be adverse, strategies shall be developed to avoid, minimize or mitigate these adverse effects. In accordance with 54 U.S.C. 312507, up to 1 percent of the total amount authorized to be appropriated for the Project may be applied toward data recovery of historic properties and such costs shall be borne entirely by the Government. In the event that costs associated with data recovery of historic properties exceed 1 percent of the total amount authorized to be appropriated for the Project, in accordance with 54 U.S.C. 312508, the Government will seek a waiver from the 1 percent limitation under 54 U.S.C. 312507 and upon receiving the waiver, will proceed with data recovery at full federal expense. Nothing in this Agreement shall limit or otherwise prevent the Non-Federal Sponsor from voluntarily contributing costs associated with data recovery that exceed 1 percent.

E. When the District Commander determines that initial construction of the Project, or a functional portion thereof, is complete, within 30 calendar days of such determination, the District Commander shall so notify the Non-Federal Sponsor in writing and the Non-Federal Sponsor, at no cost to the Government, shall operate, maintain, repair, rehabilitate, and replace the Project, or such functional portion thereof. The Government shall furnish the Non-Federal Sponsor with an Operation, Maintenance, Repair, Rehabilitation, and Replacement Manual (hereinafter the “OMRR&R Manual”) and copies of all as-built drawings for the completed work. The Government’s undertaking of a cycle of periodic nourishment has no effect on the Non-Federal Sponsor’s continuing responsibility for operation, maintenance, repair, rehabilitation, and replacement of the Project. If a cycle of periodic nourishment changes those responsibilities, the Non-Federal Sponsor, at no cost to the Government, shall commence any additional responsibilities upon notification from the Government.
1. The Non-Federal Sponsor shall conduct its operation, maintenance, repair, rehabilitation, and replacement responsibilities in a manner compatible with the authorized purpose of the Project and in accordance with applicable Federal laws and specific directions prescribed by the Government in the OMRR&R Manual. The Government and the Non-Federal Sponsor shall consult on any subsequent updates or amendments to the OMRR&R Manual.

2. The Government may enter, at reasonable times and in a reasonable manner, upon real property interests that the Non-Federal Sponsor now or hereafter owns or controls to inspect the Project, and, if necessary, to undertake any work necessary to the functioning of the Project for its authorized purpose. If the Government determines that the Non-Federal Sponsor is failing to perform its obligations under this Agreement and the Non-Federal Sponsor does not correct such failures within a reasonable time after notification by the Government, the Government, at its sole discretion, may undertake any operation, maintenance, repair, rehabilitation, or replacement of the Project. No operation, maintenance, repair, rehabilitation, or replacement by the Government shall relieve the Non-Federal Sponsor of its obligations under this Agreement or preclude the Government from pursuing any other remedy at law or equity to ensure faithful performance of this Agreement.

F. At least twice annually and after storm events, the Non-Federal Sponsor, at no cost to the Government, shall perform surveillance of the Project to determine losses of material and provide results of such surveillance to the Government.

G. Not less than once each year, the Non-Federal Sponsor shall inform affected interests of the extent of risk reduction afforded by the Project.

H. The Non-Federal Sponsor shall participate in and comply with applicable Federal floodplain management and flood insurance programs.

I. In accordance with Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), the Non-Federal Sponsor shall prepare a floodplain management plan for the Project within one year after the effective date of this Agreement and shall implement such plan not later than one year after completion of initial construction of the Project. The plan shall be designed to reduce the impacts of future coastal events in the project area, including but not limited to, addressing those measures to be undertaken by non-Federal interests to preserve the level of coastal storm risk reduction provided by such work. The Non-Federal Sponsor shall provide an information copy of the plan to the Government.

J. The Non-Federal Sponsor shall publicize floodplain information in the area concerned and shall provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with the Project.

K. The Non-Federal Sponsor shall prevent obstructions or encroachments on the Project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) that might reduce the level of coastal storm risk reduction the Project affords, hinder operation and maintenance of the Project, or interfere with the Project’s proper function.
L. For shores, other than Federal shores, protected pursuant to this Agreement using Federal funds, the Non-Federal Sponsor shall ensure the continued public use of such shores compatible with the authorized purpose of the Project.

M. The Non-Federal Sponsor shall provide and maintain necessary access roads, parking areas, and other associated public use facilities, open and available to all on equal terms, as described in the Decision Document.

N. The Non-Federal Sponsor shall not use Federal program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the Project. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

O. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all the requirements of applicable Federal laws and implementing regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

P. In addition to the ongoing, regular discussions of the parties in the delivery of the Project, the Government and the Non-Federal Sponsor may establish a Project Coordination Team to discuss significant issues or actions. The Government’s costs for participation on the Project Coordination Team shall not be included in construction costs that are cost shared but shall be included in calculating the Maximum Cost Limit. The Non-Federal Sponsor’s costs for participation on the Project Coordination Team shall not be included in construction costs that are cost shared and shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

Q. The Non-Federal Sponsor may request in writing that the Government perform betterments or additional work on behalf of the Non-Federal Sponsor. Each request shall be subject to review and written approval by the Division Commander. If the Government agrees to such request, the Non-Federal Sponsor, in accordance with Article VI.D., must provide funds sufficient to cover the costs of such work in advance of the Government performing the work.

R. Notwithstanding any other provision in this Agreement, in the event that there are insufficient BBA 2018 funds available to complete initial construction of the Project, such completion shall be subject to receiving Federal funds appropriated by the Congress. To the extent that Federal funds other than BBA 2018 funds are used, financing is not available for any required cash contribution, and the Non-Federal Sponsor must provide such amounts in accordance with the following:

1. The Government shall determine the amount of funds required from the Non-Federal Sponsor to meet its cost share for the then-current fiscal year. No later than 30 calendar
days after receipt of notification from the Government, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government in accordance with Article VI.B.1.c.

2. No later than August 1st prior to each subsequent fiscal year, the Government shall provide the Non-Federal Sponsor with a written estimate of the full amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. Not later than September 1st prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government in accordance with Article VI.B.1.c.

ARTICLE III - REAL PROPERTY INTERESTS, PLACEMENT AREA IMPROVEMENTS, RELOCATIONS, AND COMPLIANCE WITH PUBLIC LAW 91-646, AS AMENDED

A. The Government, after consultation with the Non-Federal Sponsor, shall determine the real property interests needed for construction, operation, and maintenance of the Project. The Government shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of the real property interests that the Government determines the Non-Federal Sponsor must provide for construction, operation, and maintenance of the Project, and shall provide the Non-Federal Sponsor with a written notice to proceed with acquisition. The Non-Federal Sponsor shall acquire the real property interests and shall provide the Government with authorization for entry thereto in accordance with the Government’s schedule for construction of the Project. The Non-Federal Sponsor shall ensure that real property interests provided for the Project are retained in public ownership for uses compatible with the authorized purposes of the Project.

B. The Government, after consultation with the Non-Federal Sponsor, shall determine the placement area improvements necessary for construction, operation, and maintenance of the Project, and shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such improvements and shall provide the Non-Federal Sponsor with a written notice to proceed with such improvements. The Non-Federal Sponsor shall construct the improvements in accordance with the Government’s construction schedule for the Project.

C. The Government, after consultation with the Non-Federal Sponsor, shall determine the relocations necessary for construction, operation, and maintenance of the Project, and shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such relocations and shall provide the Non-Federal Sponsor with a written notice to proceed with such relocations. The Non-Federal Sponsor shall perform or ensure the performance of these relocations in accordance with the Government’s construction schedule for the Project.

D. To the maximum extent practicable, not later than 30 calendar days after the Government provides to the Non-Federal Sponsor written descriptions and maps of the real property interests, placement area improvements, and relocations required for construction, operation, and maintenance of the Project, the Non-Federal Sponsor may request in writing that the Government acquire all or specified portions of such real property interests, construct placement area improvements, or perform the necessary relocations. If the Government agrees to such a request, the Non-Federal Sponsor, in accordance with Article VI.D., must provide
funds sufficient to cover the costs of the acquisitions, placement area improvements, or relocations in advance of the Government performing the work. The Government shall acquire the real property interests, construct the placement area improvements, and perform the relocations, applying Federal laws, policies, and procedures. The Government shall acquire real property interests in the name of the Non-Federal Sponsor except, if acquired by eminent domain, the Government shall convey all of its right, title and interest to the Non-Federal Sponsor by quitclaim deed or deeds. The Non-Federal Sponsor shall accept delivery of such deed or deeds. The Government’s providing real property interests, placement area improvements, or performing relocations on behalf of the Non-Federal Sponsor does not alter the Non-Federal Sponsor’s responsibility under Article IV for the costs of any cleanup and response related thereto.

E. As required by Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4630 and 4655), and Section 24.4 of the Uniform Regulations contained in 49 C.F.R. Part 24, the Non-Federal Sponsor assures that (1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under Sections 4622, 4623 and 4624 of Title 42 of the U.S. Code; (2) relocation assistance programs offering the services described in Section 4625 of Title 42 of the U.S. Code shall be provided to such displaced persons; (3) within a reasonable period of time prior to displacement, comparable replacement dwellings will be available to displaced persons in accordance with Section 4625(c)(3) of Title 42 of the U.S. Code; (4) in acquiring real property, the Non-Federal Sponsor will be guided, to the greatest extent practicable under State law, by the land acquisition policies in Section 4651 and the provision of Section 4652 of Title 42 of the U.S. Code; and (5) property owners will be paid or reimbursed for necessary expenses as specified in Sections 4653 and 4654 of Title 42 of the U.S. Code.

ARTICLE IV - HAZARDOUS SUBSTANCES

A. The Non-Federal Sponsor shall be responsible for undertaking any investigations to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter “CERCLA”) (42 U.S.C. 9601-9675), that may exist in, on, or under real property interests required for construction, operation, and maintenance of the Project. However, for real property interests that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the District Commander provides the Non-Federal Sponsor with prior specific written direction, in which case the Non-Federal Sponsor shall perform such investigations in accordance with such written direction.

B. In the event it is discovered that hazardous substances regulated under CERCLA exist in, on, or under any of the required real property interests, within 15 calendar days of such discovery, the Non-Federal Sponsor and the Government, in addition to providing any other notice required by applicable law, shall provide written notice to each other, and the Non-Federal Sponsor shall not proceed with the acquisition of such real property interests until the parties agree that the Non-Federal Sponsor should proceed.
C. If hazardous substances regulated under CERCLA are found to exist in, on, or under any required real property interests, the parties shall consider any liability that might arise under CERCLA and determine whether to initiate construction, or if already initiated, whether to continue construction, suspend construction, or terminate construction.

1. Should the parties initiate or continue construction, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response, including the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

2. In the event the parties cannot reach agreement on how to proceed or the Non-Federal Sponsor fails to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor’s responsibilities under this Article upon direction by the Government, the Government may suspend or terminate construction, but may undertake any actions it determines necessary to avoid a release of such hazardous substances.

D. In the event of a discovery, the Non-Federal Sponsor and the Government shall initiate consultation with each other within 15 calendar days in an effort to ensure that responsible parties bear any necessary cleanup and response costs as defined in CERCLA. Any decision made pursuant to this Article shall not relieve any third party from any liability that may arise under CERCLA.

E. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the Project for purposes of CERCLA liability. To the maximum extent practicable, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the Project in a manner that will not cause liability to arise under CERCLA.

ARTICLE V - CREDIT FOR REAL PROPERTY INTERESTS, PLACEMENT AREA IMPROVEMENTS, RELOCATIONS, AND IN-KIND CONTRIBUTIONS

A. The Government shall include in construction costs, and credit towards the Non-Federal Sponsor’s share of such costs, the value of Non-Federal Sponsor provided real property interests (except interests in lands subject to shore erosion that are publicly owned on the effective date of this Agreement or, if required for in-kind contributions covered by an in-kind Memorandum of Understanding (hereinafter “In-Kind MOU”), that were publicly owned on the effective date of the In-Kind MOU), placement area improvements, and relocations, and the costs of in-kind contributions determined by the Government to be required for the Project. However, for initial construction of the Project, only costs incurred by the Non-Federal Sponsor to acquire real property interests from private owners, to construct placement area improvement, to perform relocations, and to provide in-kind contributions are eligible for credit.
B. To the maximum extent practicable, no later than 3 months after it provides the Government with authorization for entry onto a real property interest or pays compensation to the owner, whichever occurs later, the Non-Federal Sponsor shall provide the Government with documents sufficient to determine the amount of credit to be provided for the real property interest in accordance with paragraphs C.1. of this Article. To the maximum extent practicable, no less frequently than on a quarterly basis, the Non-Federal Sponsor shall provide the Government with documentation sufficient for the Government to determine the amount of credit to be provided for other creditable items in accordance with paragraph C. of this Article.

C. The Government and the Non-Federal Sponsor agree that the amount of costs eligible for credit that are allocated by the Government to construction costs shall be determined and credited in accordance with the following procedures, requirements, and conditions. Such costs shall be subject to audit in accordance with Article X.B. to determine reasonableness, allocability, and allowability of costs.

1. Real Property Interests.

   a. General Procedure. For initial construction of the Project, only costs associated with real property interests acquired from private owners after the effective date of this Agreement are eligible for credit, unless such real property interests acquired from private owners were required for in-kind contributions covered by an In-Kind MOU. The Non-Federal Sponsor shall obtain, for each creditable real property interest (except interests in lands subject to shore erosion that are publicly owned on the effective date of this Agreement), an appraisal of the fair market value of such interest that is prepared by a qualified appraiser who is acceptable to the parties. Subject to valid jurisdictional exceptions, the appraisal shall conform to the Uniform Standards of Professional Appraisal Practice. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. For crediting purposes, appraisals of interests in lands subject to shore erosion acquired from private parties after the effective date of this Agreement must consider special benefits in accordance with the Uniform Appraisal Standards for Federal Land Acquisition (2016) (hereinafter “Uniform Appraisal Standards”).

   (1) Date of Valuation. For any real property interests (other than interests in lands subject to shore erosion) owned by the Non-Federal Sponsor on the effective date of this Agreement and required for construction performed after the effective date of this Agreement, the date the Non-Federal Sponsor provides the Government with authorization for entry thereto shall be used to determine the fair market value. For any real property interests required for in-kind contributions covered by an In-Kind MOU (other than interests in lands subject to shore erosion that were publicly owned on the effective date of the In-Kind MOU), the date of initiation of construction shall be used to determine fair market value. The fair market value of real property interests acquired by the Non-Federal Sponsor after the effective date of this Agreement shall be the fair market value of such real property interests at the time the interests are acquired.

   (2) Except for real property interests acquired through eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal
Sponsor shall submit an appraisal for each real property interest to the Government for review and approval no later than, to the maximum extent practicable, 60 calendar days after the Non-Federal Sponsor provides the Government with an authorization for entry for such interest or concludes the acquisition of the interest through negotiation or eminent domain proceedings, whichever occurs later. If, after coordination and consultation with the Government, the Non-Federal Sponsor is unable to provide an appraisal that is acceptable to the Government, the Government shall obtain an appraisal to determine the fair market value of the real property interest for crediting purposes.

(3) The Government shall credit the Non-Federal Sponsor the appraised amount approved by the Government. Where the amount paid or proposed to be paid by the Non-Federal Sponsor exceeds the approved appraised amount, the Government, at the request of the Non-Federal Sponsor, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the appraised amount for crediting purposes.

b. Eminent Domain Procedure. For real property interests acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall notify the Government in writing of its intent to institute such proceedings and submit the appraisals of the specific real property interests to be acquired for review and approval by the Government. If the Government provides written approval of the appraisals, the Non-Federal Sponsor shall use the amount set forth in such appraisals as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

(1) If the Government provides written disapproval of the appraisals, the Government and the Non-Federal Sponsor shall consult to promptly resolve the issues that are identified in the Government’s written disapproval. In the event the issues cannot be resolved, the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for purpose of instituting the eminent domain proceeding. Except as provided in paragraph C.1.b.(2) below, the fair market value for crediting purposes shall be either the amount of the court award for the real property interests taken or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

(2) For interests in lands subject to shore erosion, the Government will credit the amount of the court award or stipulated settlement only to the extent that the court award or stipulated settlement considered special benefits in accordance with the Uniform Appraisal Standards. If the court award or stipulated settlement did not consider special benefits, fair market value for crediting purposes shall be the limited to the amount determined by an appraisal that considers special benefits.

c. Waiver of Appraisal. Except as required by paragraph C.1.b. of this Article, the Government may waive the requirement for an appraisal pursuant to this paragraph if, in accordance with 49 C.F.R. Section 24.102(c)(2):

(1) the owner is donating the real property interest to the Non-Federal Sponsor and releases the Non-Federal Sponsor in writing from its obligation to appraise
the real property interest, and the Non-Federal Sponsor submits to the Government a copy of the owner’s written release; or

(2) the Non-Federal Sponsor determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the real property interest proposed for acquisition is estimated at $25,000 or less, based on a review of available data. When the Non-Federal Sponsor determines that an appraisal is unnecessary, the Non-Federal Sponsor shall prepare the written waiver valuation required by 49 C.F.R. Section 24.102(c)(2) and submit a copy thereof to the Government for approval. When the anticipated value of the real property interest exceeds $10,000, the Non-Federal Sponsor must offer the owner the option of having the Non-Federal Sponsor appraise the real property interest.

d. **Incidental Costs.** The Government shall include in construction costs and credit towards the Non-Federal Sponsor’s share of such costs, the incidental costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred in acquiring any real property interests required pursuant to Article III for the Project after the effective date of this Agreement, unless such incidental costs were required for in-kind contributions covered by an In-Kind MOU. For initial construction of the Project, only incidental costs for acquiring real property interests from private owners are eligible for credit. Such incidental costs shall include closing and title costs, appraisal costs, survey costs, attorney’s fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits provided in accordance with Article III.E., and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest pursuant to Article III.

2. **Placement Area Improvements.** The Government shall include in construction costs and credit towards the Non-Federal Sponsor’s share of such costs, the value of placement area improvements required for the Project. The value shall be equivalent to the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred to provide any placement area improvements required for the Project. Only placement area improvements provided after the effective date of this Agreement are eligible for credit, unless such placement area improvements were required for in-kind contributions covered by an In-Kind MOU. Such costs shall include, but not necessarily be limited to, actual costs of constructing the improvements; planning, engineering, and design costs; supervision and administration costs; and documented incidental costs associated with providing the improvements, but shall not include any costs associated with betterments, as determined by the Government.

3. **Relocations.** The Government shall include in construction costs and credit towards the Non-Federal Sponsor’s share of such costs, the value of any relocations performed by the Non-Federal Sponsor that are directly related to construction, operation, and maintenance of the Project. Only relocations performed after the effective date of this Agreement are eligible for credit, unless such relocations were required for in-kind contributions covered by an In-Kind MOU.
a. For a relocation other than a highway, the value shall be only that portion of relocation costs that the Government determines is necessary to provide a functionally equivalent facility, reduced by depreciation, as applicable, and by the salvage value of any removed items.

b. For a relocation of a highway, which is any highway, roadway, or street, including any bridge thereof, that is owned by a public entity, the value shall be only that portion of relocation costs that would be necessary to accomplish the relocation in accordance with the design standard that the State of Florida would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

c. Relocation costs include actual costs of performing the relocation; planning, engineering, and design costs; supervision and administration costs; and documented incidental costs associated with performance of the relocation, as determined by the Government. Relocation costs do not include any costs associated with betterments, as determined by the Government, nor any additional cost of using new material when suitable used material is available.

4. In-Kind Contributions. The Government shall include in construction costs and credit towards the Non-Federal Sponsor’s share of such costs, the value of in-kind contributions that are integral to the Project.

a. The value shall be equivalent to the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred to provide the in-kind contributions. Such costs shall include, but not necessarily be limited to, actual costs of providing the in-kind contributions; engineering and design costs; supervision and administration costs; and documented incidental costs associated with providing the in-kind contributions, but shall not include any costs associated with betterments, as determined by the Government. Appropriate documentation includes invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor’s employees.

b. No credit shall be afforded for interest charges, or any adjustment to reflect changes in price levels between the time the in-kind contributions are completed and credit is afforded; for the value of in-kind contributions obtained at no cost to the Non-Federal Sponsor; for any in-kind contributions performed prior to the effective date of this Agreement unless covered by an In-Kind MOU between the Government and Non-Federal Sponsor; or for costs that exceed the Government’s estimate of the cost for such in-kind contributions if they had been provided by the Government.

5. Compliance with Federal Labor Laws. Any credit afforded under the terms of this Agreement is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (labor standards originally enacted as the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland Anti-Kickback Act), and credit may be withheld, in whole or in part, as a result of the Non-Federal Sponsor’s failure to comply with its obligations under these laws.
D. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall not be entitled to credit for real property interests that were previously provided as an item of local cooperation for another Federal project or that are required for beach improvements with exclusively private benefits or real property interests for initial construction of the Project (other than those acquired through relocations) that are owned or controlled by public entities.

ARTICLE VI – PAYMENT OF FUNDS

A. As of the effective date of this Agreement, total construction costs are projected to be $98,798,000 with the Government’s share of such costs projected to be $52,023,000 and the Non-Federal Sponsor’s share of such costs projected to be $46,775,000. Construction costs allocated to coastal storm risk management for initial construction are projected to be $17,494,000, with the Government’s share of such costs projected to be $11,371,000 and the Non-Federal Sponsor’s share of such costs projected to be $6,123,000, which includes creditable real property interests, relocations, and placement area improvements projected to be $3,633,000 creditable in-kind contributions projected to be $0, and the amount of funds required to meet its cost share projected to be $2,490,000. Construction costs allocated to coastal storm risk management for periodic nourishment are projected to be $81,304,000, with the Government’s share of such costs projected to be $40,652,000, and the Non-Federal Sponsor’s share of such costs projected to be $40,652,000. Construction costs allocated to beach improvements with exclusively private benefits are projected to be $0 for initial construction and $0 for periodic nourishment. Costs for betterments are projected to be $0. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

B. Deferred Payment of Cash Contributions for Initial Construction of the Project. To the extent BBA 2018 funds are available for initial construction of the Project, the following provisions apply:

1. During initial construction of the Project, the Government will maintain records of monthly Federal obligations and determine non-Federal share of such obligations.

   a. The Government shall charge interest on the non-Federal share of each monthly amount. Interest shall be compounded annually on the anniversary of each monthly amount until the date initial construction of the Project is completed or terminated, as applicable. If such anniversary is less than twelve months, the Government will prorate the interest charges.

   b. The Government shall provide the Non-Federal Sponsor with monthly reports of all such monthly amounts incurred to date and the estimated interest charges applied to each monthly amount through that quarter.

   c. If the Non-Federal Sponsor elects to make a payment of funds during initial construction of the Project or the Government determines at any time that it does not have
sufficient funds to allow the Non-Federal Sponsor to defer its cash contributions pursuant to the provisions of paragraph B. of this Article, the Non-Federal Sponsor shall provide such funds by delivering a check payable to “FAO, USAED, Jacksonville (K3)” to the District Commander, or by providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government.

2. Pursuant to Article II.E or Article VII, the District Commander shall provide written notification to the Non-Federal Sponsor of the date initial construction was completed or terminated, as applicable. After such notification, the Government shall conduct a final accounting to determine the construction costs for initial construction and each party’s required share thereof, and each party’s total contributions thereto. Such final accounting does not limit the Non-Federal Sponsor’s responsibility to pay its share of construction costs for initial construction, including contract claims or any other liability that may become known after the final accounting. In addition, if the final accounting for initial construction determines that the Non-Federal Sponsor’s credit for real property interests, placement area improvements, and relocations combined with credit for in-kind contributions exceed its share of construction costs for initial construction, the Government, subject to the availability of funds, shall enter into a separate agreement to reimburse the difference to the Non-Federal Sponsor.

3. Not later than 30 calendar days after the date of the District Commander’s written notice pursuant to paragraph B.2. of this Article, the Government shall complete the final accounting and notify the Non-Federal Sponsor in writing of the principal amount, which includes that portion of the non-Federal cash contributions that have been deferred plus interest during construction, and the initial annual installments of the principal amount amortized over a period of 30-years using an interest rate determined in accordance with Section 106 of the Water Resources Development Act of 1986. The payment period begins on the date the Government notifies the Non-Federal Sponsor of the principal amount and the initial annual installments.

4. The Government shall recalculate the annual installments at five-year intervals by amortizing the outstanding portion of the principal amount over the remaining portion of the payment period using an interest rate determined in accordance with Section 106 of the Water Resources Development Act of 1986. The Government shall notify the Non-Federal Sponsor in writing of the recalculated annual installments. The last installment shall be adjusted upward or downward to assure payment of all the indebtedness.

5. The Non-Federal Sponsor shall pay the first installment no later than 30 calendar days after the date of the Government’s notification pursuant to paragraph B.3. of this Article, and each annual installment thereafter on the anniversary date of such notification, by delivering a check payable to “FAO, USAED, Jacksonville (K3)” to the District Commander or providing an Electronic Funds Transfer in accordance with procedures established by the Government. The Non-Federal Sponsor, in its sole discretion, may prepay the principal amount, in whole or in part, at any time without penalty.
C. Payment of Funds for Each Cycle of Periodic Nourishment.

1. While undertaking periodic nourishment, the Government shall provide the Non-Federal Sponsor with quarterly reports setting forth the estimated construction costs and the Government’s and Non-Federal Sponsor’s estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable real property interests, placement area improvements, and relocations; the estimated amount of any creditable in-kind contributions; and the estimated amount of funds required from the Non-Federal Sponsor during the upcoming fiscal year.

2. For each cycle of periodic nourishment, the Non-Federal Sponsor shall provide the funds required to meet its share of construction costs allocated to coastal storm risk management by delivering a check payable to “FAO, USAED, Jacksonville (K3)” to the District Commander, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

3. The Government shall draw from the funds provided by the Non-Federal Sponsor to cover the non-Federal share of construction costs allocated to coastal storm risk management as those costs are incurred. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor’s required share of such construction costs, the Government shall provide the Non-Federal Sponsor with written notice of the amount of additional funds required. Within 120 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds.

4. Upon completion of each cycle of periodic nourishment, including resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. Should such final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 120 calendar days of receipt of written notice from the Government, shall provide the Government with the full amount of such additional required funds. Such final accounting does not limit the Non-Federal Sponsor's responsibility to pay its share of construction costs, including contract claims or any other liability that may become known after the final accounting. If a final accounting determines that funds provided by the Non-Federal Sponsor exceed the amount of funds required to meet its share of construction costs for periodic nourishment, the Government shall refund such excess amount, subject to the availability of funds for the refund. In addition, if such final accounting determines that the Non-Federal Sponsor’s credit for real property interests, placement area improvements, and relocations combined with credit for in-kind contributions exceed its share of construction costs for periodic nourishment, the Government, subject to the availability of funds, shall enter into a separate agreement to reimburse the difference to the Non-Federal Sponsor.
D. If there are beach improvements with exclusively private benefits; or real property interests, placement area improvements, relocations, additional work, or betterments provided on behalf of the Non-Federal Sponsor; the Government shall provide written notice to the Non-Federal Sponsor of the amount of funds required to cover such costs. No later than 60 calendar days of receipt of such written notice, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government by delivering a check payable to “FAO, USAED, Jacksonville (K3)” to the District Commander, or by providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. If at any time the Government determines that additional funds are required to cover such costs, the Non-Federal Sponsor shall provide those funds within 30 calendar days from receipt of written notice from the Government.

ARTICLE VII - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Government may suspend or terminate construction of the Project unless the Assistant Secretary of the Army (Civil Works) determines that continuation of such work is in the interest of the United States or is necessary in order to satisfy agreements with other non-Federal interests.

B. If the Government determines at any time that the Federal funds made available for construction of the Project are not sufficient to complete such work, the Government shall so notify the Non-Federal Sponsor in writing within 30 calendar days, and upon exhaustion of such funds, the Government shall suspend construction, until there are sufficient funds appropriated by the Congress and funds provided by the Non-Federal Sponsor to allow construction to resume. In addition, the Government may suspend construction of periodic nourishment if the Maximum Cost Limit is exceeded.

C. If hazardous substances regulated under CERCLA are found to exist in, on, or under any required real property interests, the parties shall follow the procedures set forth in Article IV.

D. In the event of termination, the parties shall conclude their activities relating to construction of the Project. To provide for this eventuality, the Government may reserve a percentage of available funds as a contingency to pay the costs of termination, including any costs of resolution of real property acquisition, resolution of contract claims, and resolution of contract modifications.

E. Any suspension or termination shall not relieve the parties of liability for any obligation incurred. Any delinquent payment owed by the Non-Federal Sponsor pursuant to this Agreement shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.
ARTICLE VIII - HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from design, construction, operation, maintenance, repair, rehabilitation, and replacement of the Project, except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE IX - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE X - MAINTENANCE OF RECORDS AND AUDITS

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits of the Project. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government’s costs of audits shall not be included in construction costs that are cost shared, but shall be included in calculating the Maximum Cost Limit.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor’s activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

ARTICLE XI - RELATIONSHIP OF PARTIES

In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to
be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

ARTICLE XII - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by registered or certified mail, with return receipt, as follows:

If to the Non-Federal Sponsor:
   Chair
   Flagler County Board of County Commissioners
   1769 East Moody Blvd., Bldg. 2
   Bunnell, FL 32110

If to the Government:
   District Commander
   U.S. Army Corps of Engineers, Jacksonville District
   P.O. Box 4970
   Jacksonville, Florida 32232-0019

B. A party may change the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

ARTICLE XIII - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.
ARTICLE XIV - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Commander.

DEPARTMENT OF THE ARMY

BY: ________________________________
    Andrew D. Kelly, Jr.
    Colonel, U.S. Army
    District Commander

DATE: ______________________________

FLAGLER COUNTY, FLORIDA

BY: ________________________________
    Donald T. O’Brien Jr.
    Chairman, Flagler County Board
    of County Commissioners

DATE: ______________________________
CERTIFICATE OF AUTHORITY

I, Albert J. Hadeed, do hereby certify that I am the principal legal officer for Flagler County, Florida, that Flagler County, Florida is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and Flagler County, Florida in connection with the Flagler County, Florida Coastal Storm Risk Management Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the person who executed this Agreement on behalf of Flagler County, Florida acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____________ day of _____________ 2019.

____________________________
Albert J. Hadeed
Flagler County Attorney
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 subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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 by 31 U.S.C. 1352. Any person who fails to file the 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.

____________________________________
Donald T. O’Brien Jr.
Chairman, Flagler County Board of
County Commissioners

DATE: ______________________________
SUBJECT: Ratification of March 4, 2019 Adoption of Ordinance No. 2019-01 Amending the PUD (Planned Unit Development) Development Standards for the Huntington Villas at Hunters Ridge PUD (Application #3163/Project #2018110025).

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: The subject parcel lies within the Hunter's Ridge Development of Regional Impact (DRI), South of Airport Road and on both sides of Hunter's Ridge Boulevard:

On March 4, 2019, the Board of County Commissioners adopted Ordinance No. 2019-01 amending and restating the Huntington Villas Planned Unit Development (PUD). While the Board partially approved the developer's proposed amendment, there were to be no changes to decrease the acreage of the recreational tract. This restriction was provided as a note added to the site plan; however, with the changes to the ordinance, the
enactment and filing with the Department of State fell beyond the 10 days required in Florida Statutes (see Sec. 125.66(2)(b), Florida Statutes). As a result, the Board’s action adopting the changes to the Villas PUD through Ordinance No. 2019-01 requires a subsequent ordinance ratifying the March 4, 2019 adoption.

Public notice has been provided for this application according to FCLDC Section 2.07.00 and Section 125.66, Florida Statutes.

**DEPARTMENT CONTACT:** Adam Mengel, Planning Director (386) 313-4003

**RECOMMENDATION:** Request the Board of County Commissioners ratify the March 4, 2019 adoption of Ordinance No. 2019-01, the amendment and restating of the PUD Development Agreement for Huntington Villas PUD, adopted through an ordinance titled similar to:

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING FLAGLER COUNTY ORDINANCE NO. 2008-25, NO. 2013-06, NO. 2015-04, AND NO. 2015-14, AND RATIFYING THE BOARD’S ADOPTION OF ORDINANCE NO. 2019-01; AMENDING AND RESTATING THE HUNTINGTON VILLAS AT HUNTER’S RIDGE DEVELOPMENT AGREEMENT FOR THE HUNTINGTON VILLAS PLANNED UNIT DEVELOPMENT; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.
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**ATTACHMENTS:**
1. Draft Ordinance
2. Public notice
ORDINANCE NO. 2019 – ___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING FLAGLER COUNTY ORDINANCE NO. 2008-25, NO. 2013-06, NO. 2015-04, AND NO. 2015-14, AND RATIFYING THE BOARD’S ADOPTION OF ORDINANCE NO. 2019-01; AMENDING AND RESTATING THE HUNTINGTON VILLAS AT HUNTER’S RIDGE DEVELOPMENT AGREEMENT FOR THE HUNTINGTON VILLAS PLANNED UNIT DEVELOPMENT; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, BADC Huntington Communities, LLC, the owner of the subject parcel and the applicant for this amendment, submitted Application #3163 for approval of an amended Development Agreement in a Planned Unit Development (PUD) for Huntington Villas for development of a 154-lot single-family residential townhome subdivision on an 90.87 acre parcel described herein; and

WHEREAS, the subject property is part of the Hunter’s Ridge Development of Regional Impact (DRI) as initially established through the Amended Final Order and Joint Stipulation recorded at Official Records Book 455, Page 1019 of the Public Records of Flagler County, Florida, and as most recently amended by Resolution No. 2010-61 recorded at Official Records Book 1803, Page 648 of the Public Records of Flagler County, Florida; and

WHEREAS, the Hunter’s Ridge DRI established land uses generally, but without the specificity provided by the PUD review and approval process; and

WHEREAS, the owner now desires to amend the Development Agreement in a Planned Unit Development (PUD) for Huntington Townhomes, now referred to as Huntington Villas, as originally adopted through Ordinance No. 2008-25 recorded at Official Records Book 1677, Page 1381 of the Public Records of Flagler County, Florida; and

WHEREAS, on February 12, 2019, the Planning and Development Board reviewed this amended development agreement as part of their regular business and unanimously recommended approval of the request; and

WHEREAS, on March 4, 2019, the Board of County Commissioners held a public hearing on this request and voted to approve the amendment to the Huntington Villas PUD, with the exception that Tract R-1 would remain as it was depicted on the plat recorded at Map Book 38, Page 51, Public Records of Flagler County, Florida; and

WHEREAS, public notice of this action has been provided in accordance with Chapter 125.66, F.S., and Section 2.07.00, Flagler County Land Development Code; and
WHEREAS, the ordinance adopted on March 4, 2019, Ordinance No. 2019-01, amending the Huntington Villas PUD was not timely filed with the Secretary of State, requiring the Board of County Commissioners to ratify its previous action adopting this ordinance to meet the statutory requirements for the filing of an ordinance following adoption by the Board of County Commissioners.

NOW, THEREFORE, BE IT ORDAINED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. FINDINGS
A. The Board of County Commissioners, pursuant to Section 3.04.02 of the Flagler County Land Development Code, finds as follows:

1. The proposed amended PUD Development Agreement does not adversely affect the orderly development of Flagler County and complies with applicable Comprehensive Plan goals, objectives and policies; and,

2. The proposed amended PUD Development Agreement will not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood.

Section 2. ADOPTION OF DEVELOPMENT AGREEMENT
A. The Board of County Commissioners hereby adopts the amended and restated PUD Development Agreement for the Huntington Villas PUD, formerly known as the Huntington Townhomes PUD, attached at Exhibit 1 to this Ordinance.

B. Development within the boundaries of the PUD District as approved shall take place in accord with the Flagler County Land Development Code as may be modified or amended and the PUD Conceptual Site Plan prepared by Zev Cohen and Associates, Inc., and included at Exhibit B to the Development Agreement attached hereto as Exhibit 1 and made a part hereof.

C. The applicant shall signify its acceptance of this Development Agreement by filing for recording into the Public Records of Flagler County, Florida, the attached Agreement with the Clerk of the Circuit Court within thirty (30) days.

Section 3. EFFECTIVE DATE
This Ordinance shall take effect upon Official Acknowledgement by the Secretary of State that the Ordinance has been filed.
PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS 4TH DAY OF MARCH, 2019.

RATIFIED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS 17TH DAY OF JUNE, 2019.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

By: __________________________
    Donald T. O'Brien, Jr., Chair

ATTEST:

By: __________________________
    Tom Bexley, Clerk of the Circuit Court and Comptroller

Approved as to Form:

______________________________
Al Hadeed, County Attorney
1.0 INTRODUCTION

This Amended and Restated Huntington Villas at Hunter’s Ridge Development Agreement (Agreement) governs Huntington Villas at Hunter’s Ridge (Subdivision) on approximately 90.87 acres of land generally located on both the east and west side of Hunter’s Ridge Boulevard and more particularly described in Exhibit “A” hereto (Property). The Property is owned by BADC Huntington Communities, LLC, a Florida Limited Liability Corporation (Owner). For purposes of this Amendment, the Owner’s address is 231 N. Woodland Blvd., DeLand, Florida 32720.

2.0 SUBDIVISION DESCRIPTION

2.1 Low Density Single Family Residential. The Subdivision is currently part of the Hunter’s Ridge Development of Regional Impact (DRI) and consistent with said DRI, the subject property shall be developed as a multi-family community containing private common areas with entry features and with roadway tracts. The Subdivision shall consist of a maximum of one hundred fifty-four (154) multi-family attached residential units, with a maximum of eight (8) residences attached together, subject to available water and wastewater capacity. The Amended Site Development Plan for Huntington Villas at Hunter’s Ridge is generally outlined below and depicted on the PUD Amended Site Development Plan, which is attached as Exhibit “B” hereto (Amended Site Development Plan).

2.2 Temporary Sales and Construction Trailers and Model Homes.

(a) Construction trailers may be permitted on any lot within the Subdivision prior to final plat approval in conjunction with the issuance and continuation of a land development permit. Construction trailers may not remain within the Subdivision following the expiration or completion of a land development permit.

(b) Model homes may be permitted following preliminary plat approval and prior to final plat approval, provided that no Certificate of Occupancy will be issued until final plat approval and recordation, and all required infrastructure is in place and approved for use by the responsible party. A maximum of five of the lots may be used for model homes and a maximum of three model homes may be used as temporary sales centers. Any use of a lot for model home purposes within any section or phase shall terminate and be discontinued following four (4) years after the approval of the first Certificate of Occupancy for a dwelling unit not utilized as a model home within the respective section or phase.

2.3 Common Areas. Common areas (labeled as Tracts on the Amended Site Development Plan) are located throughout the Subdivision and shall include open space, landscape areas, recreation (active and passive), conservation areas, required buffers and retention ponds and may include entrance features. Common areas shall be maintained by the Hunter’s Ridge Community Development District No. 1, or Hunter’s Ridge Homeowners Association of East Florida, Inc., or Huntington Village Homeowner's
2.4 Variances. Variance requests shall be subject to Flagler County's variance procedures as provided for in the Flagler County Land Development Code (FCLDC).

3.0 DEVELOPMENT PLAN

3.1 Plan Overview.

(a) The Amended Site Development Plan, Exhibit "B", depicts the general layout of the entire development plan. The exact location of structures, lot lines, roadways, internal landscape buffers, drainage facilities, and other improvements shown on the Amended Site Development Plan may be modified during the plat(s) review process.

(b) Adjustments to the Amended Site Development Plan are anticipated to occur during the plat review processes. Revisions that meet the intent and purpose of the DRI and Flagler County's Comprehensive Plan and the FCLDC may be approved by the County Administrator or designee, as long as the substantial integrity of the Amended Site Development Plan and the development standards contained herein are maintained. Any modification to the Amended Site Development Plan that increases the density or types of development or reduces the total amount or type of open space, or decreases the size of the buffer by more than 5%, shall require the approval of the Flagler County Board of County Commissioners following the review and recommendation of the Flagler County Planning and Development Board.

(c) The Subdivision may be developed in multiple phases. All infrastructure necessary to support each phase of the Subdivision shall be constructed within that phase as a condition of this Amended Site Development Plan approval. Adequate emergency vehicle access and turn-arounds shall be provided at all times.

4.0 LAND DEVELOPMENT CODE APPLICABILITY

4.1 Except as otherwise set forth in the DRI and in this Agreement, the FCLDC shall apply to development of the Property. The requirements of the Hunter's Ridge DRI shall be adhered to. The requirements of this Agreement supersede any inconsistent provisions of the FCLDC or other ordinances of Flagler County.

4.2 Stormwater. Stormwater runoff from the development will be conveyed to on-site storm water retention systems by means of grassed swales and an underground drainage pipe system.

4.3 Roadways. Internal access to all residential structures shall be provided by roadway tracts. Ownership and maintenance responsibility for all roadways within the Property lies with the Hunter's Ridge Community Development District No. 1. Internal roadway tracts shall have a minimum width of fifty (50) feet unless otherwise approved by Flagler County. Roadway pavement widths shall be a minimum of twenty (20) feet. Six (6) entrance roads off Hunter's Ridge Boulevard shall be provided as indicated on Exhibit "B". Each applicant for a building permit within the Subdivision is required to pay applicable transportation impact fees to Flagler County in addition to an assessment fee
by Volusia County equal to Volusia County's impact fee. All roadways in the Amended Site Development Plan to be prepared and approved shall be roadway tracts, but will be subject to a perpetual, non-exclusive public access and this public right shall be reflected on the final plat.

4.4 Landscaping. Efforts to preserve and enhance the existing landscape will be achieved through supplemental landscaping that will blend with the natural vegetation while also accentuating the residential areas, entrances and other common spaces. The Owner shall plant and maintain a minimum of one (1) tree, either live oak, magnolia or other tree referenced in the FCLDC as a shade tree for every dwelling unit constructed. In addition, the Owner shall install one (1) tree per 100 linear feet along all common areas fronting roadways within the development. All reasonable efforts shall be made to preserve existing native oak trees and vegetation on the site. Index tree protection shall comply with the FCLDC. General landscaping around lots, roadways, entrances, residential buildings, and other common areas will be landscaped with native plant materials in accordance with the FCLDC and the Hunter's Ridge DRI as adopted or amended. All landscape areas will have supplemental irrigation. Flexibility of this Amended Site Development Plan allows for further refinement of site development, landscaping and preservation of existing vegetation. Water wise landscaping shall be used. Reclaimed water is not available for irrigation from the City of Ormond Beach. In accordance with Section 6.4 of the Hunter's Ridge DRI Development Order, stormwater management ponds will be used as a water source for landscape irrigation as approved by the SJRWMD permits for the Subdivision. If necessary, irrigation wells may be used to replenish surface water sources. In order to efficiently allow for distribution of said water source, the Owner and/or the Huntington Village Homeowner's Association, Inc., will be permitted to install, maintain, and operate a Master Irrigation Distribution System in lieu of the installation of an Effluent Reuse Distribution System within the public rights-of-way.

4.5 Signage. Huntington Villas at Hunter's Ridge signage shall be designed, constructed and located as reflected in the Amended Site Development Plan and such signs may be lighted (with lighting directed away from traffic), and shall be a maximum of eight feet (8') tall, with a message area no greater than eighty (80) square feet in size for the main entrance. Secondary entrance signs shall not exceed sixteen (16) square feet per sign face and not exceed six feet (6') in height. Signs shall be set back from adjacent roadways sufficient to protect public safety and view angles consistent with provisions in the FCLDC.

4.6 Site Development Requirements. The dimensional requirements within the Subdivision will be as set forth in the table at Section 5.3 below.

4.7 Entry Features. The entrance/exit roads to the Subdivision shall be constructed from Hunter's Ridge Boulevard in the approximate location as shown on the Amended Site Development Plan. Vehicle access shall be designed to accommodate emergency vehicle access at these locations, pursuant to dimensional requirements defined by application of FCLDC.

4.8 Recreation/Amenity Center. A recreational Amenity Center will be constructed as part of the project. The Amenity Center is shown on the attached Amended Site Development Plan and will serve the Huntington Village developments (Huntington
Lakes, Villas and Woods). A system of pedestrian/bicycle paths shall be incorporated into the project as reflected in the attached Amended Site Development Plan. Five foot (5') wide sidewalks will be constructed as shown on the attached Exhibit “C”. All sidewalks shall be installed in front of each lot as the lots are developed. Where required, bicycle paths shall be six and one-half feet (6.5') wide.

4.9 Lighting. Decorative pole-mounted street lighting fixtures shall be provided throughout the Subdivision. Additional landscape lighting may include low-level lighting and occasional accent lighting. The locations of such fixtures shall follow FDOT specifications for roadways and Flagler County requirements, as well as the Hunter’s Ridge DRI requirements.

4.10 Maintenance. Except as otherwise provided for herein, the common areas and other lands that are owned or controlled by the Hunter’s Ridge Community Development District No. 1 will be maintained by the Community Development District, its successors or assigns.

5.0 SITE DEVELOPMENT PLAN

5.1 Plan Overview. The Amended Site Development Plan, Exhibit “B”, depicts the general layout of the Subdivision, including the location of roadway tracts and development areas. All roadway tracts, utilities and stormwater structures shall be constructed within two (2) years from the Owner being authorized to commence construction of said improvements.

5.2 Zoning and Future Land Use Map (FLUM) Category. Flagler County’s Comprehensive Plan designates the Huntington Villas Subdivision as Mixed Use: Low-Intensity Low/Medium Density. The PUD zoning is consistent with this FLUM category.

5.3 Site Development Requirements.

(a) The following table lists the site development requirements that are applicable within the Subdivision. Variances may be granted by Flagler County in accordance with the FCLDC,

<table>
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<th>Requirement</th>
<th>Requirement Details</th>
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<tbody>
<tr>
<td>Minimum lot size</td>
<td>3,300 Sq. Ft.</td>
</tr>
<tr>
<td>Minimum lot width</td>
<td>26 feet</td>
</tr>
<tr>
<td>Minimum front setback</td>
<td>20 feet</td>
</tr>
<tr>
<td>Minimum rear setback</td>
<td>10 feet</td>
</tr>
<tr>
<td>Minimum side yard setback</td>
<td>7.5 feet (0 feet interior w/15 feet between buildings)</td>
</tr>
<tr>
<td>Maximum building height</td>
<td>35 feet, except 28 feet for Lots 33-50, as shown on attached Exhibit “B”</td>
</tr>
<tr>
<td>Maximum impervious coverage</td>
<td>85%</td>
</tr>
<tr>
<td>Minimum living area</td>
<td>1,000 Square Feet</td>
</tr>
<tr>
<td>Maximum lot coverage</td>
<td>77%</td>
</tr>
</tbody>
</table>
(b) Minimum finished floor elevation must comply with the FCLDC.

(c) The only items allowed to be placed in the easements by the property owner shall be as permitted by Flagler County. All items placed in the easements, including items permitted by Flagler County, shall be removed and replaced at the sole expense of the property owner if access to the easement area is required for the installation, maintenance, repair, or removal of easement-related improvements by Flagler County, the Hunter's Ridge Community Development District No. 1, the Hunter's Ridge Homeowners Association of East Florida, Inc., their successors or assigns, or other third party.

(d) As approved by the Board of County Commissioners on May 7, 2018, the following improvements shall be allowed within any drainage easement:

1. Placement of the concrete sidewalk not to exceed three feet (3') in width within the drainage easement from each property.

2. Allow the eave to overhang no more than 2 feet (2') in the drainage easement and three feet (3') into the drainage easement for the doorway/entryway up to a maximum of twenty five feet (25').

5.4 Emergency Services. Fire protection requirements for the Subdivision will be met through the use of hydrants installed on the Property by the Owner in accordance with Flagler County standards. The locations of wet hydrants will be shown on the final site construction plans. Secondary emergency access will be provided via easement connection to the Ashford Lakes subdivision, as shown on the Amended Site Development Plan. If an easement is not obtained, secondary emergency access will be provided via a divided median design at the intersection with Hunter's Ridge Boulevard and White Stag Court.

5.5 Parking. A minimum of two parking spaces per unit will be provided within driveways with a minimum of eight feet (8') by twenty feet (20') per space, on individual lots. Driveways shall have a minimum side yard setback of five feet (5') with a centerline no closer than forty feet (40') to any roadway tract intersection. Parking shall not be permitted within Subdivision roadway tracts, unless specifically provided for on paved surfaces outside of the twenty foot (20') driving lanes.

5.6 Conservation Easement. The Owner shall record the conservation easements over the jurisdictional wetlands within the Subdivision meeting the requirements of Section 704.06, Florida Statutes, to protect the conserved wetlands and upland buffers on the Property. The conservation easements shall be dedicated to the St. Johns River Water Management District (District) or the Florida Department of Environmental Protection (FDEP). The maintenance of the dedicated tract shall be performed by Hunter's Ridge Community Development District No. 1, unless otherwise specified by the District or FDEP.

5.7 Wetland Buffer. The Owner shall comply with the District's minimum buffer standards and the Flagler County Comprehensive Plan and the FCLDC, whichever is more restrictive. The buffer areas shall be shown on final plat(s) and shall be maintained in their natural state free of structures. The amount of SJRWMD Jurisdictional Wetlands
will consist of 51.35+/- acres (56.5%). The amount of impacted SJRWMD Jurisdictional
Wetlands will be 8.35+/- acres (9.2%)(16.35% of the total wetlands).

5.8 Services. All services for this Subdivision including telephone, electricity, cable
television, water, sewer, reuse and storm water management shall be provided by the
responsible parties. Said services shall be placed in easements or roadway tracts
granted at the time of final plat approval. Water and wastewater service shall be
provided by the City of Ormond Beach pursuant to the terms of the Retail Water and
Wastewater Service Agreement for the Hunter’s Ridge Development in Flagler County
dated 11-16-2009.
OWNER'S/APPLICANT'S CONSENT AND COVENANT:

COMES NOW, the Owner on behalf of itself and its successors, assigns and transferees of any nature whatsoever, and consents to and agrees with the covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Agreement.

BADC HUNTINGTON COMMUNITIES, LLC
a Florida limited liability company

By: BADC ASSET MANAGERS, INC.
a Florida corporation

Its: Manager

By:
Name: Howard B. Lefkowitz
Title: Vice President

STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me this 26th day of March, 2019 by Howard Lefkowitz, Vice President of BADC Asset Managers, Inc., who is personally known to me or has produced a driver's license as identification.

(Seal)

Patricia A. Hall
Notary Public

Patricia A. Hall
Print Name

My commission expires: 9-13-2021

Patricia A. Hall
Commission # SG142765
Expires: September 13, 2021
Bonded thru Aaron Notary

Page 7 of 11
AFFIDAVIT OF LEGAL NOTICE

I, the undersigned, being first duly sworn, do hereby state under oath and under penalty of perjury, that the following facts are true:

1. I am over the age of 18 and I am a resident of the State of Florida. I have personal knowledge of the facts herein and, if called as a witness, could testify competently thereto.

2. I either completed the legal notice described herein or it was completed under my responsible direction.

3. The facts herein relate specifically to Application #\[Application Number\].

4. Notice for this Application has been provided as stated herein for the (select as applicable):
   - Planning and Development Board meeting on [date]; and/or
   - Board of County Commissioners meeting on [date].

5. Newspaper publication (select one, proof of publication attached):
   - \(\checkmark\) legal advertisement (Publication date: [Publication Date])
   - 2 x 10 with map (Publication date: [Publication Date])
   - 2 x 10 without map (Publication date: [Publication Date])

6. Mailed notice: \(\checkmark\) [number] letters were mailed out on [date] to parcel owners as listed within Property Appraiser records within 300 feet of the subject parcel(s)(copy of parcel list and sample notice letter attached).

7. Posted notice: \(\checkmark\) [number] signs were posted on the subject parcel(s) on [date](photographs of posted signs attached).

By: ____________________________
Name: __________________________

Sworn and subscribed before me on [date] by ____________________________ [name] who (select one): is personally known to me or produced ____________________________ [document] as identification and who took an oath.

[Signature]
HARRY VAN BRINK III
Commission # GG 047324
Expires November 15, 2020
Bonded Thru Troy Palms Insurance 800-385-7019

(Seal)

NOTARY PUBLIC - STATE OF FLORIDA

Name: ____________________________
Commission No.: __________________
My Commission Expires: _______________
NOTICE OF ADOPTION OF AMENDMENT TO PLANNED UNIT DEVELOPMENT AGREEMENT

Pursuant to Chapter 125, Florida Statutes, the Flagler County Board of County Commissioners hereby provide notice of ratification of their March 4, 2019 decision on Application #3163 submitted by BADC Huntington Communities, LLC, and possible adoption of an Ordinance titled similar to:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING FLAGLER COUNTY ORDINANCE NO. 2008-25, NO. 2013-06, NO. 2015-04, AND NO. 2015-14, AND RATIFYING THE BOARD'S ADOPTION OF ORDINANCE NO. 2019-01; AMENDING AND RESTATING THE HUNTINGTON VILLAS AT HUNTER'S RIDGE DEVELOPMENT AGREEMENT FOR THE HUNTINGTON VILLAS PLANNED UNIT DEVELOPMENT; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

Public hearing on the above-captioned matter will be held as follows:

BOARD OF COUNTY COMMISSIONERS - June 17, 2019 at 5:30 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Blvd., Building 2, Bunnell, Florida.

All interested persons are urged to attend the public hearing and be heard. Anyone wishing to express their opinion may attend, telephone 386-313-4009 or write to: Flagler County Planning Department, 1769 E. Moody Blvd., Building 2, Bunnell, Florida.

Copies of the proposal, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning & Zoning Dept., 1769 East Moody Boulevard, Building 2, Bunnell, Florida 32110.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON WILL NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT LEAST 48 HOURS PRIOR TO THE MEETING.
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#3163 Huntington Villas

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I hereby affirm mailed notice to each owner on May 28, 2019 for the Board of County Commissioners Meeting on June 17, 2019 at 5:30 p.m.

[Signature]
Wendy Hitcey, Planner
May 28, 2019

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
1769 E MOODY BLVD
BUNNELL FL 32110

Re: Ratification of March 4, 2019 Board of County Commissioners Decision Adopting Ordinance No. 2019-01 for Application #3163 – Amend and Restate Development Agreement for Huntington Villas at Hunters Ridge PUD

Dear Property Owner:

As an owner of property within 300’ of the property referenced herein, the Flagler County Planning Department, in accordance with Section 2.07.00 of the Flagler County Land Development Code, advises you that:

A ratification of the March 4, 2019 Board of County Commissioners decision adopting Ordinance No. 2019-01, amending and restating the Development Agreement for Huntington Villas at Hunters Ridge PUD. Owner: BADC Huntington Communities, LLC/Applicant: Mark Watts, Esq., and Michael J. Woods, Esq., of Cobb Cole P.A.

This action is needed because the adopted ordinance was not timely filed with the Secretary of State as required by Florida Statutes. While a public hearing will be held, the requested action of the Board is to ratify the previous decision; an opportunity for public comment will be provided as part of the public hearing.

You are hereby notified that a public hearing before the Flagler County Board of County Commissioners, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, on June 17, 2019, beginning at 5:30 p.m. (the Board meeting starts at 5:00 p.m., with public hearings starting no earlier than 5:30 p.m.) or as soon thereafter as possible. You are welcome to attend and express your opinion.

Sincerely,

Wendy Hickey
Planner

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.
SUBJECT: Second Amendment to the Hunter’s Ridge Conservation Park Area Agreement.

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: The subject parcel lies within the Hunter’s Ridge Development of Regional Impact (DRI), North of the Flagler-Volusia County line:

In April 2017, the Board of County Commissioners approved a Conservation Park Area Agreement with the then-owner of the property and the master developer for Hunter's Ridge, U.S. Capital Alliance, LLC. The Agreement stipulated actions that would be taken by the County and the developer relative to the use of the Conservation Park Area for park
purposes, with conveyance of the Conservation Park Area parcel to the County, all as stipulated in the Hunter’s Ridge Development of Regional Impact (DRI) Development Order. The Agreement was recorded on May 5, 2017 at Official Records Book 2203, Page 1444, with the Warranty Deed conveying the Conservation Park Area parcel also recorded on May 5, 2017 and preceding the Agreement at Official Records Book 2203, Page 1431, Public Records of Flagler County, Florida.

Among other things, the Agreement provided for the excavation of a borrow pit within the Conservation Park Area by the developer, not to exceed 20 acres in size, and with the developer able to retain all rights to the fill material and any revenues generated from the fill. As described at the time, the fill was intended to be used on the proposed sites of subdivisions within Hunter’s Ridge identified as Celedine and Iris; however, the developer was not required through the Agreement to limit the use of the fill to these subdivisions or other areas within Hunter’s Ridge. Timeframes in the agreement required the developer to secure all permits for the borrow pit no later than February 1, 2018, with all excavation activities to terminate one year after commencement.

Several months later and following work by the developer to permit the borrow pit, U.S. Capital Alliance, LLC, sought an amendment to the Agreement. The First Amendment to the Conservation Park Area Agreement, recorded on August 28, 2018 at Official Records Book 2302, Page 1412, Public Records of Flagler County, Florida, extended the date to secure permits to February 1, 2019 and retained the one year time limit, while adding a $10,000 contribution to the improvement of 40-Grade (as the likely haul route for the borrow pit) and requiring the provision by the developer of a callable financial assurance that could be used by the County in the event of default to restore the borrow pit area.

The developer met the requirement to permit the borrow pit by February 1, 2019, with the County-issued land development permit now in place for the borrow pit activity. However, delays in contractor mobilization and 40-Grade improvements coinciding with the County’s silviculture activities, together with seasonal fluctuations in the wet and dry seasons make the one year time limit infeasible. As a result, U.S. Capital Alliance, LLC, proposed another amendment to the Agreement that would extend the term from one year to five years. This draft Second Amendment to the Conservation Park Area Agreement (attached) only amends the one year timeframe for the completion of excavation at the borrow pit site for the additional five year period: no other changes are proposed.

OPTIONS FOR THE BOARD: The Board of County Commissioners may:
1. Approve the Second Amendment to the Conservation Park Area Agreement, with the timeframe for completion of excavation of the borrow pit site extended from one year to five years; or
2. Approve a time extension through the Second Amendment to the Conservation Park Area Agreement for a lesser or greater time period; or
3. Take no action on the Second Amendment (effectively denying the requested time extension), leaving the one year time limit in place.

ATTACHMENTS:
1. Draft Second Amendment
2. Conservation Park Area Agreement (OR 2203, P 1444, PRFCF)
3. First Amendment to the Conservation Park Area Agreement (OR 2302, P 1412, PRFCF)
SECOND AMENDMENT
TO THE
CONSERVATION PARK AREA AGREEMENT

THIS SECOND AMENDMENT TO THE CONSERVATION PARK AREA AGREEMENT (the “Amendment”) is made and entered into this _____ day of _________________, 2019 (the “Effective Date”), by and between FLAGLER COUNTY, a political subdivision of the State of Florida, (the “County”), and U.S. CAPITAL ALLIANCE, LLC, a Florida limited liability company (the “Developer”). Together, the County and the Developer may be referred to collectively as the “Parties”.

WITNESSETH:

WHEREAS, the County and the Developer entered into that certain Conservation Park Area Agreement dated April 24, 2017, recorded on May 5, 2017 in Official Records Book 2203, Pages 1444-1486 of the Public Records of Flagler County, Florida, with First Amendment dated August 21st, 2018, recorded in Official Records Book 2302, Pages 1412-1416 of the Public Records of Flagler County, Florida, setting forth the terms and conditions pursuant to which certain mitigation activities may be conducted by the Developer on County owned land (the “Conservation Park Area Agreement”): and

WHEREAS, the Agreement further contemplates the construction of a borrow pit, and the Parties desire to amend and modify certain provisions in the Agreement, related thereto, all as more specifically set forth herein.

NOW, THEREFORE, in consideration of the promises and provisions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Developer hereby agree to amend and modify the Agreement as follows:

1. Recitals. The above recitals are true and correct and are agreed to by the County and the Tenant as if such recitals were fully set forth herein.

2. Definitions. All capitalized terms contained herein and not otherwise defined shall be defined as provided in the Agreement.

3. Section 5 of the Agreement entitled “Soil Excavation/Borrow Pit” is hereby revised as follows:

   SECTION 5. EXCAVATION/BORROW PIT. The Developer may be permitted to engage in soil excavation for a borrow pit (the “Borrow Pit”) within the north section of the Conservation Park Area, as generally depicted in Exhibit “C” attached hereto, provided that such activity is deemed by the County to be consistent with the terms and conditions of the Joint Stipulation. In such an event, the Developer shall be entitled to retain any and all rights to the fill material retrieved during the construction of the Borrow Pit and any revenues generated therefrom. The Borrow Pit shall not exceed 20 acres in size and shall be constructed in accordance with an earthmoving, haul route, and reclamation site plan (the “Excavation Plan”), which shall be agreed upon by the Developer and the County Administrator, prior to the initiation of permitting and construction. The Excavation Plan shall include, but not be limited to, parameters for contouring and sloping the Borrow Pit, maintaining suitable buffers from wetland area, and for integrating the Borrow Pit with the
existing pond as depicted in Exhibit “C”. The Excavation Plan shall also include a requirement for the Developer to post a bond or other form of financial security to guarantee its performance. The Developer shall be responsible for obtaining all associated county, state, and federal regulatory permits and approvals on or before February 1, 2019 including, but not limited to, an amendment to the Conservation Easement, if required. Developer shall complete all excavation and reclamation activities within 365 days after construction of the Borrow Pit is initiated. The Developer agrees to indemnify, defend and hold harmless the County from any suits, actions, claims, losses or damage of any nature arising out of any damage to person or property caused by or arising from any act, omission performance or nonperformance of the Developer, its agents, servants, employees, or others under the Developer’s direction or control; and to pay the County all losses, damages, expenses, costs, and attorney’s fees, that the County sustains because of a default by the Developer under its permits.

In anticipation of roadway wear and tear from Borrow Pit construction, Developer agrees to contribute $10,000 to Flagler County to be utilized for Conservation Area 40-Grade Road improvements. These funds will be utilized by Flagler County to improve 40-Grade Road prior to heavy truck traffic from Borrow Pit and silviculture activities.

The financial assurance discussed in the preceding paragraph shall be callable by Flagler County and be composed as follows:

- 100% of the costs of restoration expenses. The restoration costs shall be reviewed and approved by Flagler County.
- ¼ of the total construction cost per all active phases. The construction costs shall be reviewed and approved by Flagler County. Phases are identified in the “Hunters Ridge Fire Lake” plans, file no. 1609-1, date 06-14-2018, as follows:

CONSTRUCTION SEQUENCE:

1. EROSION CONTROL/SITE PREP (30 DAYS)
   1.1. ENSURE THE ABILITY OF THE EXISTING ACCESS ROAD TO SUPPORT CONSTRUCTION MATERIAL
   1.2. INSTALL PERIMETER SILT FENCE FOR ONSITE AND OFFSITE AREAS
   1.3. INSTALL CULVERT FOR (ONSITE & OFFSITE IF NECESSARY)
   1.4. INSTALL ENTRANCE ROAD AND SWALE (ONSITE & OFFSITE)
   1.5. CLEAR AREA WITHIN SILT FENCE, AS SHOWN ON EROSION CONTROL PLAN (ONSITE & OFFSITE)
   1.6. INSTALL DOUBLE SILT FENCE FOR STOCKPILE AREA WITHIN SITE
   1.7. INSTALL RIM DITCH SURROUNDING BORROW AREAS
   1.8. INSTALL PUMPS AND DISCHARGE PIPE
   1.9. EXCAVATE CELL 2 AS SHOWN TO 25 FT NAVD, ENSURE 27 FT TOB
   1.10. INSTALL WEIR WITHIN CELL 2

2. PHASE I (90 DAYS)
   2.1 INSTALL SOCK DRAINS 2’ BELOW EXCAVATION DEPTH OF 16’ NAVD IN CELL 1
   2.2 CONNECT TO PUMP AND BEGIN TO DRAWDOWN WATER, DISCHARGING TO CELL 2
   2.3 EXCAVATE & STOCKPILE MATERIAL ON SITE, OFFSITE AS NEEDED
3. PHASE II (80 DAYS)
   3.1 INSTALL SOCK DRAINS 2' BELOW EXCAVATION DEPTH OF -4' NAVD IN CELL 1
   3.2 CONNECT TO PUMP AND BEGIN TO DRAWDOWN WATER, DISCHARGING TO CELL 2
   3.3 EXCAVATE & STOCKPILE MATERIAL ON SITE, OFFSITE AS NEEDED

4. PHASE III (70 DAYS)
   4.1 RECREATE CELL 2 BOUNDARY, AND EXTEND LIMITS OF CELL 1 FOR OPERATION AS A DISCHARGE LOCATION
   4.2 INSTALL WEIR SURROUNDING CELL 1 AND ENSURE TOB IS AT 27' NAVD
   4.3 INSTALL SOCK DRAINS 2' BELOW EXCAVATION DEPTH OF 16' NAVD IN CELL 2
   4.4 CONNECT TO PUMP AND BEGIN TO DRAWDOWN WATER, DISCHARGING TO CELL 1
   4.5 EXCAVATE & STOCKPILE MATERIAL ON SITE, OFFSITE AS NEEDED

5. PHASE IV (60 DAYS)
   5.1 INSTALL SOCK DRAINS 2' BELOW EXCAVATION DEPTH OF -4' NAVD IN CELL 2
   5.2 CONNECT TO PUMP AND BEGIN TO DRAWDOWN WATER, DISCHARGING TO CELL 1
   5.3 EXCAVATE & STOCKPILE MATERIAL ON SITE, OFFSITE AS NEEDED

6. CLOSE OUT (30 DAYS)
   6.1 REMOVE CULVERT, RIM DITCH AND ACCESS ROAD
   6.2 REMOVE ALL STOCKPILED MATERIAL TO OFFSITE STOCKPILE LOCATION UNTIL APPROPRIATELY DRIED
   6.3 REMOVE STOCKPILE AREA
   6.4 FORM BOUNDARY OF FIRE LAKE
   6.5 EXCAVATE FIRE LAKE TO MINIMUM 8' DEPTH
   6.6 CREATE DITCH BLOCK OFFSITE AS INDICATED ON CLOSEOUT PLANS
   6.7 REVEGETATE/RESTORE/REPLANT

4. Except as specifically modified hereby, all terms and conditions set forth in the Agreement remain unmodified and in full force and effect. The County and the Developer each represent, warrant and acknowledge to each other that there are no other amendments modifications or supplements to the Agreement other than those amendments set forth in this Amendment. In the event of any conflict between the terms and provisions of the Agreement and this Amendment, the terms and provisions of this Amendment shall prevail and control.

(The Remainder Of This Page Intentionally Left Blank)
IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives on the dates shown below.

Signed, sealed and delivered in the presence of:

Witnesses:

U.S. CAPITAL ALLIANCE, LLC, a Florida limited liability company

By: HRVR Manager LLC, a Florida limited liability company
Manager of U.S. Capital Alliance, LLC, a Florida Limited liability company

By: HRVR LLC, a Florida limited liability company
Manager of HRVR Manager LLC, a Florida limited liability company

By: __________________________
Print Name: ______________________
Gregory Davis, Manager of HRVR LLC, a Florida limited liability company

STATE OF _____________
COUNTY OF _____________

The foregoing instrument was sworn to and subscribed before me this _____________ day of ________________, 2019, by Gregory Davis, Manager of HRVR LLC, a Florida limited liability company, as the Manager for HRVR LLC, a Florida limited liability company, as Manager for HRVR Manager LLC, a Florida limited liability company, as Manager of U.S. Capital Alliance, LLC, a Florida limited liability company, who is personally known to me or who produced __________________ as identification and who has sworn or affirmed that he has authority to sign the Amendment on behalf of U.S. Capital Alliance, LLC, a Florida limited liability company and to bind said company to the terms and conditions set forth herein.

Print Name: ______________________
Notary Public State of __________________
Commission No. ______________________
My Commission Expires: ________________
FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS

Donald T. O’Brien, Jr., Chair

ATTEST

Ton Bexley, Clerk of the Circuit Court and Comptroller

Date:
Execution of this Agreement was authorized by the Board of County Commissioners at its public meeting held on June 17, 2019.

APPROVED AS TO FORM:

Al Hadeed, County Attorney
CONSERVATION PARK AREA AGREEMENT

THIS AGREEMENT is made this 24th day of December, 2017 (the “Effective Date”) by and between Flagler County, a political subdivision of the State of Florida, whose address is 1769 E. Moody Blvd., Building 2, Bunnell, Florida 32110 (the “County”) and U.S. Capital Alliance, LLC, a Florida limited liability company, whose address is 880 Airport Road, Suite 113, Ormond Beach, Florida 32174, and its successors and/or assigns (the “Developer”). Together the County and the Developer may be referred to as the “Parties.”

WITNESSETH:

WHEREAS, simultaneously herewith the Developer has conveyed to the County a conservation park area consisting of approximately 1,978 acres, as more specifically described in Exhibit “A”, attached hereto and incorporated herein by reference (the “Conservation Park Area”); and

WHEREAS, the Conservation Park Area is governed by that certain Development of Regional Impact Development Order, dated November 15, 2010, adopted by the Flagler County Board of County Commissioners (the “County Commission”) pursuant to Resolution No. 2010-61, as recorded in Official Records Book 1803, Page 648, et seq., in the Public Records of Flagler County, Florida, as may be amended from time to time (the “DRI Development Order”); and

WHEREAS, the Conservation Park Area is further subject to that certain Joint Stipulation, dated December 6, 1990, as recorded in Official Records Book 455, Page 1126, et seq., of the Public Records of Flagler County, Florida, as may be amended from time to time (the “Joint Stipulation”); and

WHEREAS, pursuant to the DRI Development Order and the Joint Stipulation, the Developer may be permitted by the County to engage in certain environmental restoration activities within the Conservation Park Area and to utilize the Conservation Park Area for compensatory mitigation in order to offset any wetland mitigation requirements which may arise from the construction of the Hunter’s Ridge Development of Regional Impact (the “Project”); and

WHEREAS, the County and the Developer desire to set forth the terms and conditions pursuant to which the aforesaid mitigation activities may be conducted by the Developer within the Conservation Park Area Developer and to further clarify but not in any way limit those rights established under the DRI Development Order and Joint Stipulation and to identify the obligations of both the County and Developer as to the use, maintenance and operation of said Conservation Park Area.
NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained and for TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION 1. WETLAND MITIGATION PERMITS

A. The Developer has filed its application for a Conceptual Permit from the St. Johns River Water Management District (the “SJRWMD”) and in the future, in conjunction with the development of each particular phase within the Project, the Developer will submit applications for permits to the United States Army Corps of Engineers (the “ACOE” and collectively, with the SJRWMD, the “Permitting Authorities”) for the purpose of allowing for the development of the Project, as such are required and shall obtain all other necessary approvals from the applicable governmental authorities required to dredge and fill wetlands and to perform required mitigation and related site work (collectively, the “Wetland Permits”). The Conceptual Permit No. 22838-47 was issued by the SJRWMD on March 20, 2017, a copy of which is attached hereto as Exhibit “B”, and is incorporated herein by reference.

B. The Parties agree that any Wetland Permits which may be issued in the future and which impact the Conservation Park Area shall be in a form reasonably acceptable to the SJRWMD, the County and the Developer and, further, shall be consistent with the DRI Development Order and the Joint Stipulation. The Developer and the County agree to fully cooperate with respect to the regulatory processes associated with the application, review and issuance of Wetland Permits, or any amendments thereto. In this regard, the County’s participation shall include, but will not be limited to, the review, approval (or disapproval with specific reasons for disapproval), and execution of all applications, petitions and other instruments pertaining to the Wetland Permits in a diligent and timely manner, so as not to cause the Developer any unnecessary or unreasonable delays in the approval process. The County acknowledges that its review of the applications for Wetland Permits shall be to assure consistency with the DRI Development Order, the Joint Stipulation, and this Agreement, and it may not deny the Developer the use of the Conservation Area for mitigation unless the proposed mitigation violates the terms of the DRI Developer Order, the Joint Stipulation, or this Agreement.

C. The Developer agrees that prior to submitting any new or amended applications or related documents to the appropriate Permitting Authorities for the Wetland Permits, the Developer shall submit such applications and documents to the County Administrator for review and approval. Within ten (10) business days of his receipt of any such applications or documents, the County Administrator shall provide the Developer with his approval or disapproval thereof. In the event the County Administrator fails to provide the Developer with a response within the ten (10) day business period, the application shall be deemed to be approved, and the County Administrator shall be required to execute the application within three (3) business days thereafter. Should the County
Administrator disapprove of any such applications or documents, then he shall promptly provide the Developer with detailed notice of its objections and grounds therefor. To the fullest extent practical, the County Administrator, or his designee, shall have the right to attend all meetings, hearings, telephone conferences or other material interactions with the Permitting Authorities regarding the Wetland Permits, and the Developer shall endeavor in good faith to provide the County Administrator with advance written notice of such meetings, hearings, etc. at least forty eight (48) hours prior thereto.

D. Once the Wetland Permits are issued by the Permitting Authorities, the Developer may request modifications, changes, deviations, alterations, additions, supplements or substitutions to the Wetland Permits, including modifications to seek additional mitigation credits associated with enhancement projects within the Conservation Park Area, with the prior written consent of the County Administrator, which consent shall not be unreasonably withheld, conditioned or delayed. The Parties agree that the County may also request modifications, changes modifications, changes, deviations, alterations, additions, supplements or substitutions to the Wetland Permits in order to allow for its use of the Conservation Park Area, with the prior written consent of the Developer, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that such modifications shall not adversely interfere with the Developer’s use of the Conservation Park Area for wetland mitigation or otherwise impact the wetland mitigation value granted to the Developer by the Wetland Permits.

E. In connection with the Conceptual Permit, the Parties acknowledge that significant portions of the associated mitigation activities must occur within the Conservation Park Area and further agree as follows:

1. The County agrees to be responsible for overseeing and implementing the following portions of the mitigation activities, at its sole cost and expense:

   (a) The County will conduct all timbering operations within the Conservation Park Area associated with the Conceptual Permit.

   (b) The County will conduct the removal of any invasive species within the Conservation Park Area associated with the Conceptual Permit.

   (c) The County will conduct controlled burns within the Conservation Park Area associated with the Conceptual Permit.

   (d) The County will conduct any of the activities set forth in subsections (a) through (c), above, as may be modified in any modifications to the Wetland Permits.

   (e) The Developer shall be entitled to the benefit of any mitigation value
gained through the completion by either the County or Developer of activities set forth in subsection E1 (a) – (d) above.

2. The County shall not be obligated to provide for any other mitigation activities in conjunction with the Wetland Permits, unless it otherwise agrees to do so, in writing, on a case by case basis.

3. The Developer shall have the right to perform any of the mitigation activities in (a) through (c) above, in the event of non-performance by the County; however, if timbering is involved, the net proceeds of any timbering shall be provided to the County which has timber rights over the Conservation Park Area.

4. Except as provided for in Section E.1., above, the Developer shall be responsible for all other land management, mitigation, or monitoring activities that are required pursuant to the Conceptual Permit, any Wetland Permits, or any future modifications thereto, including, but not limited to, enhancement or vegetative planting costs, earthwork costs, non-native vegetation, restoration costs, maintenance, re-hydration and restoration costs and any associated monitoring and reporting costs, corrective actions and non-compliance penalties, and management fees and costs (collectively, the “Regulatory Costs”).

SECTION 2. CONSERVATION EASEMENTS.

A. Subject to the conditions specified in this Agreement and in conjunction with the Wetland Permits, the Developer shall execute and deliver to the SJRWMD or the ACOE, conservation easements in a form acceptable to the County in its sole, but reasonable discretion, covering those portions of the Conservation Park Area as may be required as a condition precedent to issuing the Wetland Permits to the Developer for construction of the Project (the “Conservation Easements”).

B. The Developer acknowledges and agrees that the Conservation Easements shall allow for the County’s continued utilization of the Conservation Park Area for those uses and activities which are permitted under the DRI Development Order and the Joint Stipulation.

C. The parties acknowledge and agree that as of the Effective Date, four Conservation Easements were previously recorded and currently encumber the Conservation Area (collectively, the “Conservation Easement”).

D. The Conservation Easement may be subject to future amendments or modifications, including the termination of the Prior Conservation Easements and the recordation of a single, master conservation easement over the Conservation Park Area, subject to the Parties’ written consent, which shall not be unreasonably denied, conditioned, or delayed.
E. In connection with the County's cooperation required under this Section, the County shall not be required to incur any out-of-pocket costs, unless the County is compensated by the Developer in advance for such costs. The Developer further agrees to be responsible for the payment of any costs and expenses that may be associated with the regulatory requirements of the Permitting Authorities related to the Conservation Easements including, but not limited to, the Regulatory Costs. This provision shall not apply to any work that is performed by the County, or on behalf of the County, in connection with the County’s improvements within the Conservation Park Area.

SECTION 3. RESTORATION OF THE NATURAL HYDROPERIOD.

A. The Developer acknowledges its obligation as set forth in the Joint Stipulation, to work with the Permitting Authorities to finalize a plan for the restoration of the natural hydroperiod, in order to eliminate the drainage provided by the ditch system that was previously constructed by persons other than the Developer within the areas identified in the Joint Stipulation (the "Hydroperiod Restoration Plan"). In the event the Permitting Authorities deem the Hydroperiod Restoration Plan to be necessary, the Developer shall be responsible for any construction elements associated with the approved Hydroperiod Restoration Plan, with such construction to be completed in accordance with the terms and conditions of any associated permits issued by the Permitting Authorities.

B. The Hydroperiod Restoration Plan shall be subject to the County Administrator’s approval, which approval shall not be unreasonably withheld, conditioned or delayed.

C. Once the Hydroperiod Restoration Plan is approved by the Permitting Authorities, the Developer shall make no modifications, changes, deviations, alterations, additions, supplements or substitutions to the Hydroperiod Restoration Plan, without the prior written consent of the County Administrator, which consent shall not be unreasonably withheld, conditioned or delayed.

D. The Developer shall apply for and complete any activities authorized by the approved Hydroperiod Restoration Plan on or before January 1, 2032, but shall remain responsible for any associated management and monitoring activities required by the Permitting Authorities.

E. In connection with the cooperation required under this Section, the County shall not be required to incur any out-of-pocket costs, unless the County is compensated by the Developer in advance for such costs. The Developer further agrees to be responsible for the payment of any costs and expenses that may be associated with the regulatory requirements of the Permitting Authorities related to the Hydroperiod Restoration Plan including, but not limited to, the Regulatory Costs.

F. The County acknowledges that pursuant to the DRI Development Order, the
County received a payment from the Developer in the amount Three Hundred Thousand ($300,000), which the County was required to hold in escrow for a period of three (3) years from the date of receipt, and said funds were to be utilized, in part, for the construction of the hydrological restoration improvements required by the Hydroperiod Restoration Plan. The three (3) year escrow period has expired; however, the County agrees to utilize a portion of said funds at its sole discretion for the enhancement of the Conservation Park Area, in accordance with the DRI Development Order requirements.

SECTION 4. ENVIRONMENTAL ENHANCEMENT OR RESTORATION ACTIVITIES. The Developer may be permitted, at its sole cost and expense, to engage in certain environmental enhancement or restoration activities, in addition to those which are set forth in the Conceptual Permit, or which may be required pursuant to the Hydroperiod Restoration Plan or Wetland Permits, in order to increase the amount of mitigation credits which may be generated within the Conservation Park Area (the “Lift Projects”). Any Lift Projects shall be subject to the County Administrator’s written consent, which shall not be unreasonably withheld, conditioned or delayed. The Developer shall apply for and complete any Lift Projects on or before January 1, 2032, but shall remain responsible for any associated management and monitoring activities required by the Permitting Authorities.

SECTION 5. SOIL EXCAVATION/BORROW PIT. The Developer may be permitted to engage in soil excavation for a borrow pit (the “Borrow Pit”) within the north section of the Conservation Park Area, as generally depicted in Exhibit “C” attached hereto, provided that such activity is deemed by the County to be consistent with the terms and conditions of the Joint Stipulation. In such an event, the Developer shall be entitled to retain any and all rights to the fill material retrieved during the construction of the Borrow Pit and any revenues generated therefrom. The Borrow Pit shall not exceed 20 acres in size and shall be constructed in accordance with an earthmoving, haul route, and reclamation site plan (the “Excavation Plan”), which shall be agreed upon by the Developer and the County Administrator, prior to the initiation of permitting and construction. The Excavation Plan shall include, but not be limited to, parameters for contouring and sloping the Borrow Pit, maintaining suitable buffers from wetland areas, and for integrating the Borrower Pit with the existing pond as depicted in Exhibit “C”. The Excavation Plan shall also include a requirement for the Developer to post a bond or other form of financial security to guarantee its performance. The Developer shall be responsible for obtaining all associated county, state, and federal regulatory permits and approvals on or before February 1, 2018 including, but not limited to, an amendment to the Conservation Easement, if required. The Developer shall complete all excavation and reclamation activities within 365 days after construction of the Borrow Pit is initiated. The Developer agrees to indemnify, defend and hold harmless the County from any suits, actions, claims, losses or damage of any nature arising out of any damage to person or property caused by or arising from any act, omission, performance or nonperformance of the Developer, its agents, servants, employees, or others under the Developer’s direction or control; and to pay the County all losses,
damages, expenses, costs, and attorney’s fees, that the County sustains because of a default by the Developer under its permits.

SECTION 6. TEMPORARY ACCESS EASEMENT. The County shall record a temporary access easement over the Conservation Park Area, in substantial form as attached as Exhibit “D” hereto, in order to allow Developer to perform the activities required under the Wetland Permits.

SECTION 7. MITIGATION CREDITS.

A. The Developer shall be entitled to claim future mitigation credits which may be associated with the Wetland Permits and/or the Conservation Easements, the construction of improvements pursuant to the Hydroperiod Restoration Plan, the Lift Projects, or any other additional environmental enhancement activities contemplated by this Agreement, in order to offset any mitigation requirements arising from the construction and development of the Project, providing that such credits are acceptable to the Permitting Authorities (the “Future Mitigation Credits”). The parties acknowledge that as a result of the recordation of the Conservation Easement, as set forth in Section 2, above, the mitigation credits which are currently available for use total 62,249 UMAM units (the “Available Mitigation Credits” and together with the Future Mitigation Credits, collectively, the “Mitigation Credits”).

B. In order to satisfy the requirements of the DRI Development Order relative to the Regional Park Area, the Developer shall assign to the County a total of three state wetland mitigation credits and three federal wetland mitigation credits from the initial release of the Mitigations Credits from each agency, which shall be evidenced by a credit reservation letter from the SJRWMD and a credit reservation letter from the ACOE confirming that the assignment to the County was made and that such credits are available for the County’s use within the Regional Park Area. If the initial release for either credit type does not total three full credits, the remaining credits shall be reserved for the County’s use in the subsequent credit release. A credit reservation letter(s) on file with the SJRWMD or the ACOE, as applicable, shall be deemed to satisfy the reservation requirement.

C. The Developer agrees that it will not utilize any Mitigation Credits for any phase within the Project, until the Developer has used credits which are generated through on-site mitigation efforts, as such are determined by the Developer, within the particular phase of the Project.

D. In the event that the total amount of Mitigation Credits generated within the Conservation Area exceeds the amount which is necessary for the Developer to construct the Project, or in the event that Mitigation Credits remain unused or otherwise unallocated within the Project on or after January 1, 2047, any such remaining Mitigation Credits shall belong the
County, and any rights thereto which have been previously conferred upon or retained by the Developer shall terminate and shall cease to be of any force and effect. The Developer acknowledges and agrees that it is prohibited from transferring or otherwise utilizing any excess Mitigation Credits for use on other projects or properties that are not within the Project. The County shall not be permitted to assign said surplus Mitigation Credits to any third party and shall utilize said surplus Mitigation Credits only for development within the Project.

E. The County may refuse to approve the issuance any associated Wetland Permits or Conservation Easements, if the Developer is not in compliance with any of its obligations set forth herein, or if significant financial investment is required by the County to achieve regulatory compliance with any Permitting Authority.

SECTION 8. ADDITIONAL PARTIES. The Parties acknowledge the requirement in the Joint Stipulation that an undivided one half interest in the Conservation Park Area be conveyed to the SJRWMD. As of the Effective Date of this Agreement, the SJRWMD has declined to accept said conveyance. The County agrees that at such time as the SJRWMD requests the County to initiate the conveyance, the County shall do so within a reasonably time thereafter, and the Developer shall cooperate with the County in this regard. In addition, the Developer acknowledges and agrees that the County may work with the SJRWMD to enter into any agreements to allow for the County to manage any portions of the Conservation Area that are conveyed to the SJRWMD, pursuant to the Joint Stipulation. The Developer acknowledges and agrees that the County may work with the SJRWMD and the other parties to the Joint Stipulation to obtain a waiver or release of any future obligations to convey the undivided one half interest in the Conservation Park Area to the SJRWMD and, in such event, the Developer shall consent to such action, which said consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 9. CONDITIONS PRECEDENT TO COMMENCING ANY WORK. Prior to commencing any work within the Conservation Park Area pursuant to the terms of the Wetland Permits or the Hydroperiod Restoration Plan, the Developer shall have to obtain all Wetland Permits which will contain, as a matter of course, an engineering certification. In addition, the Developer shall award and enter into such contracts as are necessary to implement to the terms of the Wetland Permits, with such contractors, subcontractors, suppliers and professional service providers as shall be reasonably necessary to complete the work in conformity with the Wetland Permits. The Developer shall ensure that all such contracts include insurance coverage for both the County and the Developer in a form, and in an amount, as provided in the provisions attached hereto as Exhibit “E” and incorporated herein by reference. Additionally, said contracts shall provide that in the event of default or breach by the Developer, the County may, but shall not be required to, assume the contractual position of the Developer and exercise all rights and privileges governed by the contracts and upon request by the County, the Developer shall cause all of the rights and privileges to be assigned to the County. The Developer, its contractors and subcontractors, shall not
create, or allow the creation, of any lien, mortgage or other encumbrance affecting title to the Conservation Park Area or any or all of the County’s property, and if such lien or encumbrance is recorded, the Developer, at its sole cost and expense, shall promptly cause such lien or encumbrance to be immediately removed and satisfied of record.

SECTION 10. AMENDMENTS TO THE JOINT STIPULATION. The County may initiate discussions with the parties to the Joint Stipulation, in an effort to terminate or to otherwise amend or modify portions of the Joint Stipulation as it relates to the Conservation Park Area and Regional Park Area, as more specifically described in Exhibit “F” (collectively, the “Park Property”), the enforcement rights of The Florida Audubon Society, or any other matters that impact the County and its ability to develop and manage the Park Property. The Developer shall provide its consent to the termination of the Joint Stipulation, or any such amendments or modifications, providing that any termination or amendments or modifications do not adversely impact the Developer’s Mitigation Credits, and do not unreasonably interfere with the use of the Conservation Park Area for wetland mitigation. The County shall submit such requests and documents to the Developer for review and approval. Within ten (10) business days of his receipt of any such applications or documents, the Developer shall provide the County Administrator with his approval or disapproval thereof. In the event the Developer fails to provide the County Administrator with a response within the ten (10) day period, the application shall be deemed to be approved, and the Developer shall be required to execute the application within three (3) business days thereafter. Should the Developer disapprove of any such applications or documents based upon the lack of compliance with the DRI Development Order, Wetland Permits or this Agreement, then the Developer shall promptly provide the County Administrator with detailed notice of its objections and grounds therefor.

SECTION 11. TERMINATION OF THE DEVELOPER’S RIGHT TO CONSENT. The Developer’s right to consent to actions taken by the County as provided for herein, shall terminate on January 1, 2032. Consequently, the Parties acknowledge and agree that on or after January 1, 2032, the County may: engage in environmental enhancement or restoration activities within the Conservation Park Area; seek modifications to the Wetland Permits and the Conservation Easement; and seek the modification, amendment or termination of the Joint Stipulation, each without the Developer’s consent and, further, the County may utilize any mitigation credits generated by such activities for any purpose, in its sole discretion.

SECTION 12. BUYER AND SELLER AUTHORITY. The Developer and the County each warrant to the other, that each has the authority to sign this Agreement and bind itself to the terms herein.

SECTION 13. RECORDATION. This Agreement shall be recorded in the Official Records of Flagler County, Florida.
SECTION 14. DEFAULT. No party shall be considered in default for failure to perform under this Agreement until such party has received written notice specifying the nature of such default or failure to perform and said party fails to cure said default or fails to perform within thirty (30) days of receipt of said written notice.

SECTION 15. REMEDIES. The parties hereto shall have all rights and remedies provided hereunder and under Florida law with respect to enforcement of the terms of this Agreement and hereby acknowledge and agree that each party hereto shall have the right and remedy to bring an action or actions for specific performance and other such equitable or injunctive relief as appropriate or necessary to enforce this Agreement.

SECTION 16. VENUE AND JURISDICTION. The exclusive jurisdiction and venue for any action to interpret and/or enforce the terms of this Agreement shall be in the Seventh Judicial Circuit Court in and for Flagler County, Florida.

SECTION 17. TERM. The term of this Agreement shall commence upon the Effective Date and shall terminate upon the expiration of the monitoring period associated with the Wetland Permits.

SECTION 18. ASSIGNMENT. This Agreement may not be assigned by either party without the prior written consent of the other party.

SECTION 19. SUCCESSORS IN INTEREST. This Agreement shall bind and inure to the benefit of the County and the Developer and their respective heirs, legal representatives and successors or assigns.

SECTION 20. COUNTERPARTS. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

SECTION 21. SEVERABILITY. If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the invalidity, illegality, or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

SECTION 22. CONSTRUCTION.

A. This Agreement shall not be construed against either party on the basis of it being the
drafter of this Agreement.

B. This Agreement shall not operate as a development order or permit or a development approval of any type. No waiver or fulfillment of any condition or development arising from the Flagler County Comprehensive Plan or the Land Development code is intended and none shall be implied from the terms of this Agreement.

SECTION 23. MODIFICATIONS OR AMENDMENTS IN WRITING. Any modification, amendment or alteration in the terms or conditions contained herein shall not be effective unless contained in a written document executed by the parties with the same formality as herewith.

SECTION 24. RELATIONSHIP OF THE PARTIES. The relationship of the parties to this Agreement is contractual, and the Developer is not an agent of the County. Nothing herein shall be deemed to create a joint venture or principal/agent relationship between the parties, and neither party is authorized to nor shall either party act toward third persons or the public in any manner that would indicate any such relationship with the other.

SECTION 25. SOVEREIGN IMMUNITY. Notwithstanding any other provision set forth in this Agreement nothing contained in this Agreement shall be construed as a waiver of the County’s right to sovereign immunity under Section 726.88, Florida Statutes, or other limitations imposed on the County’s potential liability under state or federal law. This paragraph shall survive termination of this Agreement.

SECTION 26. WAIVER. Failure of the County to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect.

SECTION 27. NOTICE. Whenever either party desires or is required to give notice unto the other, it must be given by written notice, and either delivered personally, transmitted via facsimile transmission, mailed postage prepaid, or sent by overnight courier to the appropriate address indicated on the first page of this Agreement, or such other address as is designated in writing by a party to this Agreement.

SECTION 28. WAIVER OF JURY TRIAL. EACH PARTY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY LITIGATION OR OTHER COURT PROCEEDINGS WITH RESPECT TO ANY MATTER ARISING FROM OR RELATED TO THIS AGREEMENT.
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives on the dates shown below.

Signed, sealed and delivered in the presence of:

Witnesses:

[Signature]
Print Name: [Signature]
Print Name: [Signature]

U.S. CAPITAL ALLIANCE, LLC,
a Florida limited liability company

By: [Signature]
Allan Fefer, Manager
Date: 2-14-17

STATE OF FLORIDA
COUNTY OF ________

The foregoing instrument was sworn to and subscribed before me this ___ day of ____________ 2017, by ALLAN FEKER, who is personally known to me or who has produced ____________ as identification.

Print Name: ________________________
Notary Public, State of Florida
Commission No. ______________________
My Commission Expires: ____________

SEE ATTACHED CERTIFICATE
DATE 4-24-17 NOTARY INITIALS E.C.
CALIFORNIA JURAT CERTIFICATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange

Subscribed and sworn to (or affirmed) before me on this
24 day of April, 2017
by Allan Feker
proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature

Brian Cash

BRIAN CASH
COMM...2150025
NOTARY PUBLIC-CALIFORNIA
ORANGE COUNTY

ADDITIONAL INFORMATION (OPTIONAL)

DESCRIPTION OF THE ATTACHED DOCUMENT

Conservation Park Area
Agreement
Number of pages 29
Document Date 4-24-17
Page 13

NOTARY PUBLIC CONTACT INFORMATION

The UPS Store
668 N Coast Hwy
Laguna Beach, CA 92651
949-494-4420 tel
949-494-9850 fax
store0120@theupsstore.com
www.TheUPSSStore.com/0120
ATTEST:

Tom Bexley, Comptroller and Clerk to the Board

APPROVED AS TO FORM:

SPECIAL COUNSEL TO FLAGLER COUNTY

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

Nate McLaughlin, Chairman

Date: May 3, 2017

Execution of this Agreement was authorized by the Board of County Commissioners at its public meeting held on December 5, 2016.
EXHIBIT “A”

PARCEL A:
CONSERVATION AREA

ALL OF SECTION 17 AND SECTION 20, TOWNSHIP 14 SOUTH, RANGE 31 EAST, AND PORTIONS OF SECTIONS 16 AND 21, TOWNSHIP 14 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 21, TOWNSHIP 14 SOUTH, RANGE 31 EAST, BEARING S 87°26'24" W, ALONG THE SOUTH LINE OF SAID SECTION 21, A DISTANCE OF 2646.25 FEET; THENCE S 87°26'13" W, ALONG SAID SOUTH LINE A DISTANCE OF 1358.81 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION:

THENCE S 87°26'13" W, ALONG SAID SOUTH LINE OF SECTION 21 A DISTANCE OF 1286.70 FEET TO THE SOUTHWEST CORNER OF SECTION 21; THENCE DEPARTING THE SOUTH LINE OF SECTION 21, S 86°59'32" W, ALONG THE SOUTH LINE OF SECTION 20, TOWNSHIP 14 SOUTH, RANGE 31 EAST, A DISTANCE OF 2665.33 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 20; THENCE CONTINUE ALONG THE SOUTH LINE OF SECTION 20, S 87°00'42" W, A DISTANCE OF 2664.85 FEET TO THE SOUTHWEST CORNER OF SECTION 20; THENCE DEPARTING THE SOUTH LINE OF SECTION 20, N 02°02'45" W, ALONG THE WEST LINE OF SECTION 20, A DISTANCE OF 5321.15 FEET TO THE NORTHWEST CORNER OF SECTION 20; THENCE DEPARTING THE WEST LINE OF SECTION 20, N 01°43'08" W, ALONG THE WEST LINE OF SECTION 17, TOWNSHIP 14 SOUTH, RANGE 31 EAST, A DISTANCE OF 5287.16 FEET TO THE NORTHWEST CORNER OF SAID SECTION 17; THENCE DEPARTING THE WEST LINE OF SECTION 17, N 87°27'35" E, ALONG THE NORTH LINE OF SECTION 17 A DISTANCE OF 5312.21 FEET TO THE NORTHEAST CORNER OF SECTION 17; THENCE DEPARTING THE NORTH LINE OF SECTION 17, N 87°32'41" E, ALONG THE NORTH LINE OF SECTION 16, TOWNSHIP 14 SOUTH, RANGE 31 EAST, A DISTANCE OF 2647.95 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 16; THENCE DEPARTING THE NORTH LINE OF SECTION 16, S 02°21'48" E, A DISTANCE OF 3880.18 FEET; THENCE S 02°19'50" E, A DISTANCE OF 2495.94 FEET; THENCE S 43°52'00" E, A DISTANCE OF 749.86 FEET; THENCE S 41°35'05" E, A DISTANCE OF 898.99 FEET; THENCE S 33°37'40" E, A DISTANCE OF 508.06 FEET; THENCE S 64°21'36" E, A DISTANCE OF 226.21 FEET; THENCE S 01°13'55" W, A DISTANCE OF 234.10 FEET; THENCE S 33°53'03" E, A DISTANCE OF 538.90 FEET TO A CURVE IN THE NORTH RIGHT-OF-WAY OF AIRPORT ROAD (100 FOOT RIGHT-OF-WAY); THENCE ALONG SAID CURVE IN THE NORTH RIGHT-OF-WAY OF AIRPORT ROAD, CONCAVE SOUTHEASTERLY, HAVING A DELTA OF 07°25'11", A RADIUS OF 2800.00, AN ARC LENGTH OF 362.60 FEET, A CHORD BEARING OF S 47°52'38" W, AND A CHORD DISTANCE OF 362.34 FEET TO THE POINT OF TANGENCY IN SAID RIGHT-OF-WAY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY S 44°10'02" W, A DISTANCE OF 250.00 FEET TO A CURVE
CONCAVE NORTHWESTERLY, HAVING A DELTA OF 01°05'49", A RADIUS OF 2450.00 FEET, AN ARC LENGTH OF 46.91 FEET, A CHORD BEARING OF S 44°42'56" W, AND A CHORD DISTANCE OF 46.91 FEET; THENCE DEPARTING THE RIGHT OF WAY OF AIRPORT ROAD, N 14°10'39" W, A DISTANCE OF 51.47 FEET; THENCE N 53°38'41" W, A DISTANCE OF 894.33 FEET; THENCE S 51°35'29" W., A DISTANCE OF 974.13 FEET TO A NON-TANGENT CURVE CONCAVE NORTHWESTERLY; THENCE ALONG SAID CURVE HAVING A DELTA OF 18°32'46", A RADIUS OF 812.00 FEET, AN ARC LENGTH OF 262.84 FEET, A CHORD BEARING OF S 62°51'10" W, AND A CHORD DISTANCE OF 261.69 FEET TO A CURVE TO THE LEFT, CONCAVE SOUTHEASTERLY; THENCE ALONG SAID CURVE HAVING A DELTA OF 42°18'27", A RADIUS OF 917.00 FEET, AN ARC LENGTH OF 677.12 FEET, A CHORD BEARING OF S 50°58'19" W, AND A CHORD DISTANCE OF 661.84 FEET TO A NON-TANGENT POINT; THENCE S 29°49'06" W, A DISTANCE OF 645.54 FEET; THENCE S 24°21'45" W., A DISTANCE OF 276.51 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF SECTION 21, TOWNSHIP 14 SOUTH, RANGE 31 EAST, THE POINT OF BEGINNING OF THIS DESCRIPTION.
EXHIBIT “B”
Conceptual Permit No. 22838-47
March 20, 2017

US Capital Alliance LLC
880 Airport Rd Ste 113
Ormond Beach, FL 32174-4241

SUBJECT: Permit Number 22838-47
Hunter’s Ridge DRI Conceptual

Dear Sir:

Enclosed is your individual permit issued by the St. Johns River Water Management District on March 20, 2017. This permit is a legal document and should be kept with your other important documents. Permit issuance does not relieve you from the responsibility of obtaining any necessary permits from any federal, state, or local agencies for your project.

Technical Staff Report:
If you wish to review a copy of the Technical Staff Report (TSR) that provides the District’s staff analysis of your permit application, you may view the TSR by going to the Permitting section of the District’s website at www.sjrwmd.com/permitting. Using the “search applications and permits” feature, you can use your permit number or project name to find information about the permit. When you see the results of your search, click on the permit number and then on the TSR folder.

Noticing Your Permit:
For noticing instructions, please refer to the noticing materials in this package regarding closing the point of entry for someone to challenge the issuance of your permit. Please note that if a timely petition for administrative hearing is filed, your permit will become nonfinal and any activities that you choose to undertake pursuant to your permit will be at your own risk.

Compliance with Permit Conditions:
To submit your required permit compliance information, go to the District’s website at www.sjrwmd.com/permitting. Under the “Apply for a permit or submit compliance data” section, click to sign-in to your existing account or to create a new account. Select the “Compliance Submittal” tab, enter your permit number, and select “No Specific Date” for the Compliance Due Date Range. You will then be able to view all the compliance submittal requirements for your project. Select the compliance item that you are ready to submit and then attach the appropriate information or form. The forms to comply with your permit conditions are available at www.sjrwmd.com/permitting under the section “Handbooks, forms, fees, final orders”. Click on forms to view all permit compliance forms, then scroll to the ERP application forms section and select the applicable compliance forms. Alternatively, if you have difficulty finding forms or need copies of the appropriate forms, please contact the Office of Business and Administrative Services at (386) 329-4570.

Transferring Your Permit:
Your permit requires you to notify the District within 30 days of any change in ownership or control of the project or activity covered by the permit, or within 30 days of any change in ownership or control of the real property on which the permitted project or activity is located or

Please note that a permittee is liable for compliance with the permit before the permit is transferred. The District, therefore, recommends that you request a permit transfer in advance in accordance with the applicable rules. You are encouraged to contact District staff for assistance with this process.

Thank you and please let us know if you have additional questions. For general questions contact e-permit@sjrwmd.com or (386) 329-4570.

Sincerely,

M. Daniels

Margaret Daniels, Office Director
Office of Business and Administrative Services
St. Johns River Water Management District
4049 Reid Street
Palatka, FL 32177-2529
(386) 329-4570

Enclosures: Permit

cc: District Permit File

Engineering Consultant: Kimberly Buck
Alann Engineering Group, Inc.
880 Airport Rd Ste 113
Ormond Beach, FL 32174-4241

Environmental Consultant: Joseph Brinson
7220 Financial Way
Jacksonville, FL 32256-6828
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
Post Office Box 1429
Palatka, Florida 32178-1429

PERMIT NO: 22838-47 DATE ISSUED: March 20, 2017

PROJECT NAME: Hunter's Ridge DRI Conceptual

A PERMIT AUTHORIZING:

Conceptual approval of a stormwater management system plan for Hunter's Ridge DRI, a 1335.32-acre residential development as per Hunter's Ridge Development of Regional Impact Conceptual Master Plan received by the District on February 14, 2017; the Hunter's Ridge Conceptual Stormwater Plan Report received by the District on March 16, 2017; the Mitigation Plan Map received by the District on February 27, 2017; and the conceptual Wetland Mitigation Plan received by the District on November 2, 2016.

LOCATION:

SECTION(S): 15, 16, 17, 20, TOWNSHIP(S): 14S RANGE(S): 31E
21
Flagler Counties

ISSUED TO:

US Capital Alliance LLC
880 Airport Rd Ste 113
Ormond Beach, FL 32174-4241

The permittee agrees to hold and save the St. Johns River Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof.

This permit does not convey to the permittee any property rights nor any rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This permit may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes.

PERMIT IS CONDITIONED UPON:
See conditions on attached "Exhibit A", dated March 20, 2017

AUTHORIZED BY: St. Johns River Water Management District
Division of Regulatory Services

By:

(Handwritten Signature)

David Miracle
Regulatory Coordinator
"EXHIBIT A"
CONDITIONS FOR ISSUANCE OF PERMIT NUMBER 22838-47
Hunter's Ridge DRI Conceptual
DATE ISSUED March 20, 2017

1. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.

2. The permittee shall notify the District in writing of changes required by any other regulatory District that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

3. This permit does not:
   a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
   b. Convey to the permittee or create in the permittee any interest in real property;
   c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
   d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.

4. The permittee shall notify the District in writing:
   a. Immediately if any previously submitted information is discovered to be inaccurate; and
   b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

5. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.

6. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

7. The limits of surface waters and wetlands are delineated on the approved conceptual plans. The limits of wetlands as delineated on these plans are only binding for a period of
five years from the date of issuance of this conceptual permit, provided physical conditions on the property do not change so as to alter the boundaries of surface waters or wetlands during that period. The limitations of this condition can not be modified to allow for a longer duration without a complete reassessment of the limits of surface waters and wetlands occurring on the project. Changes in surface waters or wetland boundaries resulting from work authorized by a permit pursuant to Part IV, Chapter 373, F.S., will not be considered as altering the boundary for the purposes of this condition.

8. This Conceptual Approval permit is valid for twenty years from the date of issuance, provided that construction of the initial phase of the system is permitted and construction undertaken within 5 years of the issuance of this conceptual approval permit, and provided that all phases of the system are designed and built in accordance with the terms of the conceptual approval permit and that all required permits for subsequent phases are obtained.

9. The permittee must obtain an Individual Environmental Resource Permit prior to construction, including clearing and grading, of each phases of this conceptual plan.

10. The proposed project is conceptually approved per Hunter's Ridge Development of Regional Impact Conceptual Master Plan received by the District on February 14, 2017; the Hunter's Ridge Conceptual Stormwater Plan Report received by the District on March 16, 2017; the Mitigation Plan Map received by the District on February 27, 2017; and the conceptual Wetland Mitigation Plan received by the District on November 2, 2016.

11. The conceptual draft conservation easement language received by the District on January 11, 2017, is acceptable for future permitting of the construction phases in accordance with this Conceptual Approval Permit. The approved easement language shall be recorded prior to starting construction under a future construction phase that will result in wetland impacts in accordance with this Conceptual Approval Permit.

12. The conceptual conservation easement legal description and survey sketch received by the District on February 16, 2017, is acceptable to the District for future permitting and recording for a construction phase in accordance with this Conceptual Approval Permit with the following exceptions:

(a) The existing conservation easements previously recorded for Permit Nos. 22838-23 and 22838-24, identified as Item Nos. 10, 11, and 12 in the survey sketch and legal description, must be excluded (less and excepted) from the conservation easement prior to recording for a future construction phase in accordance with this Conceptual Approval Permit.

(b) The survey sketch and legal description must be recorded in a format that is legible after official recording.

13. The conceptual impact and mitigation UMAM summaries, dated February 28, 2017, are approved for this Conceptual Approval Permit. Based on the Conceptual Development and Mitigation Plans, the project is expected to result in 115.027 UMAM units of functional loss, and the on-site mitigation plan is expected to result in 62.249 UMAM units of functional gain (after the deduction of 2.05 units of functional loss due to temporary secondary impacts associated with the expected Fox Lake borrow pit and temporary use of Forty Grade as a haul road).
Notice of Rights

1. A person whose substantial interests are or may be affected has the right to request an administrative hearing by filing a written petition with the St. Johns River Water Management District (District). Pursuant to Chapter 28-106 and Rule 40C-1.1007, Florida Administrative Code, the petition must be filed (received) either by delivery at the office of the District Clerk at District Headquarters, P. O. Box 1429, Palatka Florida 32178-1429 (4049 Reid St, Palatka, FL 32177) or by e-mail with the District Clerk at Clerk@sjrwmnd.com, within twenty-six (26) days of the District depositing the notice of District decision in the mail (for those persons to whom the District mails actual notice), within twenty-one (21) days of the District emailing the notice of District decision (for those persons to whom the District emails actual notice), or within twenty-one (21) days of newspaper publication of the notice of District decision (for those persons to whom the District does not mail or email actual notice). A petition must comply with Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes, and Chapter 28-106, Florida Administrative Code. The District will not accept a petition sent by facsimile (fax), as explained in paragraph no. 4 below.

2. Please be advised that if you wish to dispute this District decision, mediation may be available and that choosing mediation does not affect your right to an administrative hearing. If you wish to request mediation, you must do so in a timely-filed petition. If all parties, including the District, agree to the details of the mediation procedure, in writing, within 10 days after the time period stated in the announcement for election of an administrative remedy under Sections 120.569 and 120.57, Florida Statutes, the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, shall be tolled to allow mediation of the disputed District decision. The mediation must be concluded within 60 days of the date of the parties’ written agreement, or such other timeframe agreed to by the parties in writing. Any mediation agreement must include provisions for selecting a mediator, a statement that each party shall be responsible for paying its pro-rata share of the costs and fees associated with mediation, and the mediating parties’ understanding regarding the confidentiality of discussions and documents introduced during mediation. If mediation results in settlement of the administrative dispute, the District will enter a final order consistent with the settlement agreement. If mediation terminates without settlement of the dispute, the District will notify all the parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Florida Statutes, is resumed. Even if a party chooses not to engage in formal mediation, or if formal mediation does not result in a settlement agreement, the District will remain willing to engage in informal settlement discussions.

3. A person whose substantial interests are or may be affected has the right to an informal administrative hearing pursuant to Sections 120.569 and 120.57(2), Florida Statutes, where no material facts are in dispute. A petition for an informal hearing must also comply with the requirements set forth in Rule 28-106.301, Florida Administrative Code.
Notice of Rights

4. A petition for an administrative hearing is deemed filed upon receipt of the complete petition by the District Clerk at the District Headquarters in Palatka, Florida during the District's regular business hours. The District's regular business hours are 8:00 a.m. - 5:00 p.m., excluding weekends and District holidays. Petitions received by the District Clerk after the District's regular business hours shall be deemed filed as of 8:00 a.m. on the District's next regular business day. The District's acceptance of petitions filed by e-mail is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation (issued pursuant to Rule 28-101.001, Florida Administrative Code), which is available for viewing at www.sjwmd.com. These conditions include, but are not limited to, the petition being in the form of a PDF or TIFF file and being capable of being stored and printed by the District. Further, pursuant to the District's Statement of Agency Organization and Operation, attempting to file a petition by facsimile is prohibited and shall not constitute filing.

5. Failure to file a petition for an administrative hearing within the requisite timeframe shall constitute a waiver of the right to an administrative hearing. (Rule 28-106.111, Florida Administrative Code).

6. The right to an administrative hearing and the relevant procedures to be followed are governed by Chapter 120, Florida Statutes, Chapter 28-106, Florida Administrative Code, and Rule 40C-1.1007, Florida Administrative Code. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means the District's final action may be different from the position taken by it in this notice. A person whose substantial interests are or may be affected by the District's final action has the right to become a party to the proceeding, in accordance with the requirements set forth above.

7. Pursuant to Section 120.68, Florida Statutes, a party to the proceeding before the District who is adversely affected by final District action may seek review of the action in the District Court of Appeal by filing a notice of appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, within 30 days of the rendering of the final District action.

8. A District action is considered rendered, as referred to in paragraph no. 7 above, after it is signed on behalf of the District and filed by the District Clerk.

9. Failure to observe the relevant timeframes for filing a petition for judicial review as described in paragraph no. 7 above will result in waiver of that right to review.

NOR.Decision.DOC.001
Revised 12.7.11
Notice of Rights

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing Notice of Rights has been sent to the permittee:

US Capital Alliance LLC
880 Airport Rd Ste 113
Ormond Beach, FL 32174-4241

This 20th day of March, 2017.

M. Daniels
Margaret Daniels, Office Director
Office of Business and Administrative Services
St. Johns River Water Management District
4049 Reid Street
Palatka, FL 32177-2529
(386) 329-4570

Permit Number: 22838-47
NOTICING INFORMATION

Dear Permittee:

Please be advised that the St. Johns River Water Management District will not publish a notice in the newspaper advising the public that it has issued a permit for this project.

Newspaper publication, using the District's notice form, notifies members of the public of their right to challenge the issuance of the permit. If proper notice is given by newspaper publication, then there is a 21-day time limit for someone to file a petition for an administrative hearing to challenge the issuance of the permit.

To close the point of entry for filing a petition, you may publish (at your own expense) a one-time notice of the District's decision in a newspaper of general circulation within the affected area as defined in Section 50.011 of the Florida Statutes. If you do not publish a newspaper notice to close the point of entry, the time to challenge the issuance of your permit will not expire and someone could file a petition even after your project is constructed.

A copy of the notice form and a partial list of newspapers of general circulation are attached for your convenience. However, you are not limited to those listed newspapers. If you choose to close the point of entry and the notice is published, the newspaper will return to you an affidavit of publication. In that event, it is important that you either submit a scanned copy of the affidavit by emailing it to compliancesupport@sjrwmnd.com (preferred method) or send a copy of the original affidavit to:

Margaret Daniels, Office Director
Office of Business and Administrative Services
4049 Reid Street
Palatka, FL 32177

If you have any questions, please contact the Office of Business and Administrative Services at (386) 329-4570.

Sincerely,

Margaret Daniels, Office Director
Office of Business and Administrative Services
NOTICE OF AGENCY ACTION TAKEN BY THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

Notice is given that the following permit was issued on ____________________:

(Name and address of applicant)
permit#____________________. The project is located in ______________ County, Section
____________, Township ________ South, Range __________ East. The permit authorizes a surface
water management system on __________ acres for
____________________________ known as
____________________________. The receiving water body is ________________.

A person whose substantial interests are or may be affected has the right to request an
administrative hearing by filing a written petition with the St. Johns River Water Management
District (District). Pursuant to Chapter 28-106 and Rule 40C-1.1007, Florida Administrative
Code (F.A.C.), the petition must be filed (received) either by delivery at the office of the District
Clerk at District Headquarters, P.O. Box 1429, Palatka FL 32178-1429 (4049 Reid St, Palatka,
FL 32177) or by e-mail with the District Clerk at Clerk@sjwmd.com, within twenty-one (21)
days of newspaper publication of the notice of District decision (for those persons to whom the
District does not mail or email actual notice). A petition must comply with Sections
120.54(5)(b)4. and 120.569(2)(c), Florida Statutes (F.S.), and Chapter 28-106, F.A.C. The
District will not accept a petition sent by facsimile (fax). Mediation pursuant to Section 120.573,
F.S., may be available and choosing mediation does not affect your right to an administrative
hearing.

A petition for an administrative hearing is deemed filed upon receipt of the complete petition by
the District Clerk at the District Headquarters in Palatka, Florida during the District's regular
business hours. The District's regular business hours are 8 a.m. – 5 p.m., excluding weekends
and District holidays. Petitions received by the District Clerk after the District's regular business
hours shall be deemed filed as of 8 a.m. on the District's next regular business day. The
District's acceptance of petitions filed by e-mail is subject to certain conditions set forth in the
District's Statement of Agency Organization and Operation (issued pursuant to Rule 28-
101.001, Florida Administrative Code), which is available for viewing at www.sjwmd.com.
These conditions include, but are not limited to, the petition being in the form of a PDF or TIFF
file and being capable of being stored and printed by the District. Further, pursuant to the
District's Statement of Agency Organization and Operation, attempting to file a petition by
facsimile (fax) is prohibited and shall not constitute filing.

The right to an administrative hearing and the relevant procedures to be followed are governed
by Chapter 120, Florida Statutes, Chapter 28-106, Florida Administrative Code, and Rule
40C-1.1007, Florida Administrative Code. Because the administrative hearing process is designed to
formulate final agency action, the filing of a petition means the District's final action may be
different from the position taken by it in this notice. Failure to file a petition for an
administrative hearing within the requisite time frame shall constitute a waiver of the
right to an administrative hearing. (Rule 28-106.111, F.A.C.).

If you wish to do so, please visit www.sjwmd.com/nor_dec/ to read the complete Notice of
Rights to determine any legal rights you may have concerning the District's decision(s) on the
permit application(s) described above. You can also request the Notice of Rights by contacting
the Office of Business and Administrative Services, 4049 Reid St., Palatka, FL 32177-2529,
tele. no 386-329-4570.)
NEwspaper Advertising

AlachuA
The Alachua County Record, Legal Advertising
P. O. Box 806
Gainesville, FL 32602
352-377-2444/ fax 352-338-1986

Baker
Baker County Press, Legal Advertising
P. O. Box 598
Macclenny, FL 32063
904-259-2400/ fax 904-259-6502

Bardof
Bradford County Telegraph, Legal Advertising
P. O. Drawer A
Starke, FL 32091
904-964-6305/ fax 904-964-8628

Brevard
Florida Today, Legal Advertising
P. O. Box 419000
Melbourne, FL 32941-9000
321-242-3832/ fax 321-242-6618

CLAY
Clay Today, Legal Advertising
1560 Kinsley Ave., Suite 1
Orange Park, FL 32073
904-264-3200/ fax 904-264-3285

DUVAL
Daily Record, Legal Advertising
P. O. Box 1769
Jacksonville, FL 32201
904-356-2466 / fax 904-353-2628

Flagler
Flagler Tribune, c/o News Journal
P. O. Box 2831
Daytona Beach, FL 32120-2831
386-681-2322

Indian River
Vero Beach Press Journal, Legal Advertising
P. O. Box 1268
Vero Beach, FL 32961-1268
772-221-4282/ fax 772-978-2340

LakE
Daily Commercial, Legal Advertising
P. O. Drawer 490007
Leesburg, FL 34749
352-365-8235/ fax 352-365-1951

Marion
Ocala Star Banner, Legal Advertising
2121 SW 19th Avenue Road
Ocala, FL 34474
352-867-4010/ fax 352-867-4126

Nassau
News-Leader, Legal Advertising
P. O. Box 766
Fernandina Beach, FL 32035
904-261-3696/ fax 904-261-3699

Orange
Sentinel Communications, Legal Advertising
633 N. Orange Avenue
Orlando, FL 32801
407-420-5160/ fax 407-420-5011

Putnam
Palatka Daily News, Legal Advertising
P. O. Box 777
Palatka, FL 32178
386-312-5200/ fax 386-312-5209

Osceola
Little Sentinel, Legal Advertising
633 N. Orange Avenue
Orlando, FL 32801
407-420-5160/ fax 407-420-5011

SEMINOLE
Seminole Herald, Legal Advertising
300 North French Avenue
Sanford, FL 32771
407-323-9408

St. Johns
St. Augustine Record, Legal Advertising
P. O. Box 1630
St. Augustine, FL 32085
904-819-3436

VOLUSIA
News Journal Corporation, Legal Advertising
P. O. Box 2831
Daytona Beach, FL 32120-2831
(386) 681-2322
EXHIBIT "C"
Location for Borrow Pit
West of 40 Grade
EXHIBIT “D”
Form of the Temporary Access Easement

Prepared By and Return To:

Kim C. Booker, Attorney at Law
Booker & Associates
1019 Town Center Drive, Suite 201
Orange City, Florida 32763

[Space Above This Line for Recording Data]

THIS TEMPORARY EASEMENT FOR ACCESS is given this __ day of __ , 2017 (the “Effective Date”), by Flagler County, Florida, a political subdivision of the State of Florida (“Grantor”), whose mailing address is 1769 Moody Blvd., Bldg. 2, Suite 301, Bunnell, Florida 32110 and U.S. Capital Alliance, LLC, a Florida limited liability company, whose address is 880 Airport Road, Suite 113, Ormond Beach, Florida 32174 (“Grantee”). Grantor and Grantee are sometimes referred to individually as a “Party”, and collectively, as “Parties”.

WITNESSETH

WHEREAS, Grantor is the fee simple owner of certain lands situated in Flagler County, Florida, and more specifically described in Exhibit "A" attached hereto and incorporated herein (the "Property"); and

WHEREAS, Grantee is the fee simple owner and developer of certain lands situated in Flagler County, Florida which are governed by that certain Development of Regional Impact Development Order, dated November 15, 2010, adopted by the Flagler County Board of County Commissioners (the “County Commission”) pursuant to Resolution No. 2010-61, as recorded in Official Records Book 1803, Page 648, et seq., in the Public Records of Flagler County, Florida, as may be amended from time to time (the “DRI Development Order”); and

WHEREAS, Grantor has agreed to grant and convey to Grantee, a temporary non-exclusive access easement over, on, under, upon, and across the Property for the specific and limited purposes set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, together with other good and valuable consideration provided to Grantor, the adequacy and receipt of which are hereby acknowledged, Grantor hereby voluntarily grants, creates, conveys, and establishes a temporary easement for and in favor of Grantee upon the Property described on Exhibit “A” which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect for the duration provided below.

The scope, nature, and character of this Easement shall be as follows:

1. Recitals. The recitals herein are true and correct and are hereby incorporated into and made a part of this Easement.
2. **Purpose.** It is the purpose of this Easement to grant a temporary non-exclusive access easement over, on, under, upon, and across the Property at all times for the limited purpose of allowing Grantee to perform all acts necessary to ensure the fulfillment of all requirements of Conceptual Permit No. 22838-47, as may be modified from time to time (the “Permit”), all of which shall be performed by Grantee in conformance with that certain Conservation Park Area Agreement dated [April 2017], 2017, between Grantor and Grantee. Grantee shall have the right to travel over, across and along the Property by means of existing roads and trails which Grantee may improve from time to time, providing such improvements are authorized by the Permit.

3. **Maintenance and Use.** Grantee shall keep the Property in good condition and repair and shall not allow the Property to be used for any unlawful purpose. Grantee shall comply with all applicable governmental laws, ordinances, rules and regulations while using the Property for the purposes granted herein. Grantee shall not dispose of any contaminants including, but not limited to, hazardous or toxic substances, on the Property or in any manner not permitted by law. Grantee shall notify Grantor immediately in the event that Grantee has actual knowledge or any environmental problems on the Property, and Grantee shall be liable for all costs associated with any clean-up of the Property that is the result of Grantee’s operations and use of the Property.

4. **Damage.** Grantee will repair any damage to the Property, to the extent such damage is caused by Grantee or its contractors, subcontractors, employees or agents.

5. **Listed Species Protection.** Grantee shall be responsible for avoidance of impacting any state or federally listed threatened or endangered species including plant and animal species on the Property wherever feasible. Grantee agrees to minimize impacts to the existing groundcover within the Property by utilizing a single path, when practical, for traversing the area with equipment traffic in conjunction with its performance of the Permit requirements. If avoidance is not feasible, Grantee shall be responsible for any litigation arising from impacts to the listed species.

6. **No Dedication.** No right of access by the general public to any portion of the Property is conveyed by this Easement.

7. **Assignment.** This Agreement shall not be assigned, in whole or in part, without the prior written consent of Grantor, which consent may not be unreasonably conditioned, withheld or delayed. Any Assignment made, either in whole or in part, without the prior written consent of Grantor, shall be void and without legal effect.

8. **Indemnification/Release.** Grantee shall indemnify, defend, and save and hold harmless Grantor, its board members and employees, from and against any and all third party claims for damages, loss, expense, liability, injury, or costs, including but not limited to reasonably attorney’s fees, relating to personal injury or death of persons and/or property damage, to the extent caused by or arising directly, indirectly or proximately from: (i) the acts or omissions of the Grantee, its agents, employees, contractors or subcontractors in connection with the use of the Property, (ii) the performance or non-performance of any term, condition, covenant or provision of this Agreement by Grantee, its agents, employees, contractors, or subcontractors; or (iii) activities conducted with respect to the Property by Grantee, its agents, employees, contractors, or
subcontractors, including but not limited to, the construction, operation or maintenance of the Property. In the event Grantor brings suit, including appeals, to enforce any of the provisions of this Agreement, Grantor shall be entitled to recover from Grantee all reasonably attorney’s fees, and costs, incurred by Grantor.

9. **Duration.** This Easement shall remain in full force and effect until the requirements of Conceptual Permit No. 22838-47 that relate to the Property are successfully completed (as indicated in writing by Grantee) or on January 1, 2032 (whichever date is earlier), unless otherwise extended in writing by Grantor and Grantee. This Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Flagler County, Florida.

10. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. The Parties agree to first attempt to settle any dispute arising out of or in connection with this Agreement by good faith negotiation. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, each shall have all remedies available at law or in equity.

11. **Recording.** Grantee, at its own expense, shall record this fully executed Agreement in its entirety in the Public Records of Flagler County, Florida.

12. **Counterparts.** This Agreement may be executed in separate counterparts, each of which is an original, and all of which together constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGES]
In Witness Whereof, the parties have signed and executed this Agreement on the respective dates below.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA

______________________________
Nate McLaughlin, Chairman

Date: __________________________

Execution of this Agreement was authorized by the Board of County Commissioners at its public meeting held on: December 5, 2016.

ATTEST:

______________________________
Gail Wadsworth, Comptroller and Clerk to the Board

APPROVED AS TO FORM:

______________________________
Al Hadeed, County Attorney
EXHIBIT “D”
Form of the Temporary Access Easement

Prepared By and Return To:

Kim C. Booker, Attorney at Law
Booker & Associates
1019 Town Center Drive, Suite 201
Orange City, Florida 32763

[Space Above This Line for Recording Data]

THIS TEMPORARY EASEMENT FOR ACCESS is given this ___day of____, 2017 (the “Effective Date”), by Flagler County, Florida, a political subdivision of the State of Florida (“Grantor”), whose mailing address is 1769 Moody Blvd., Bldg. 2, Suite 301, Bunnell, Florida 32110 and U.S. Capital Alliance, L.L.C., a Florida limited liability company, whose address is 880 Airport Road, Suite 113, Ormond Beach, Florida 32174 (“Grantee”). Grantor and Grantee are sometimes referred to individually as a “Party” and collectively, as “Parties”.

WITNESSETH

WHEREAS, Grantor is the fee simple owner of certain lands situated in Flagler County, Florida, and more specifically described in Exhibit “A” attached hereto and incorporated herein (the “Property”); and

WHEREAS, Grantee is the fee simple owner and developer of certain lands situated in Flagler County, Florida which are governed by that certain Development of Regional Impact Development Order, dated November 15, 2010, adopted by the Flagler County Board of County Commissioners (the “County Commission”) pursuant to Resolution No. 2010-61, as recorded in Official Records Book 1803, Page 648, et. seq., in the Public Records of Flagler County, Florida, as may be amended from time to time (the “DRI Development Order”); and

WHEREAS, Grantor has agreed to grant and convey to Grantee, a temporary non-exclusive access easement over, on, under, upon, and across the Property for the specific and limited purposes set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, together with other good and valuable consideration provided to Grantor, the adequacy and receipt of which are hereby acknowledged, Grantor hereby voluntarily grants, creates, conveys, and establishes a temporary easement for and in favor of Grantee upon the Property described on Exhibit “A” which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect for the duration provided below.

The scope, nature, and character of this Easement shall be as follows:

1. Recitals. The recitals herein are true and correct and are hereby incorporated into and made a part of this Easement.
2. **Purpose.** It is the purpose of this Easement to grant a temporary non-exclusive access easement over, on, under, upon, and across the Property at all times for the limited purpose of allowing Grantee to perform all acts necessary to ensure the fulfillment of all requirements of Conceptual Permit No. 22838-47, as may be modified from time to time (the "Permit"), all of which shall be performed by Grantee in conformance with that certain Conservation Park Area Agreement dated [______], 2017, between Grantor and Grantee. Grantee shall have the right to travel over, across and along the Property by means of existing roads and trails which Grantee may improve from time to time, providing such improvements are authorized by the Permit.

3. **Maintenance and Use.** Grantee shall keep the Property in good condition and repair and shall not allow the Property to be used for any unlawful purpose. Grantee shall comply with all applicable governmental laws, ordinances, rules and regulations while using the Property for the purposes granted herein. Grantee shall not dispose of any contaminants including, but not limited to, hazardous or toxic substances, on the Property or in any manner not permitted by law. Grantee shall notify Grantor immediately in the event that Grantee has actual knowledge or any environmental problems on the Property, and Grantee shall be liable for all costs associated with any clean-up of the Property that is the result of Grantee’s operations and use of the Property.

4. **Damage.** Grantee will repair any damage to the Property, to the extent such damage is caused by Grantee or its contractors, subcontractors, employees or agents.

5. **Listed Species Protection.** Grantee shall be responsible for avoidance of impacting any state or federally listed threatened or endangered species including plant and animal species on the Property wherever feasible. Grantee agrees to minimize impacts to the existing groundcover within the Property by utilizing a single path, when practical, for traversing the area with equipment traffic in conjunction with its performance of the Permit requirements. If avoidance is not feasible, Grantee shall be responsible for any litigation arising from impacts to the listed species.

6. **No Dedication.** No right of access by the general public to any portion of the Property is conveyed by this Easement.

7. **Assignment.** This Agreement shall not be assigned, in whole or in part, without the prior written consent of Grantor, which consent may not be unreasonably conditioned, withheld or delayed. Any Assignment made, either in whole or in part, without the prior written consent of Grantor, shall be void and without legal effect.

8. **Indemnification/Release.** Grantee shall indemnify, defend, and save and hold harmless Grantor, its board members and employees, from and against any and all third party claims for damages, loss, expense, liability, injury, or costs, including but not limited to reasonably attorney’s fees, relating to personal injury or death of persons and/or property damage, to the extent caused by or arising directly, indirectly or proximately from: (i) the acts or omissions of the Grantee, its agents, employees, contractors or subcontractors in connection with the use of the Property, (ii) the performance or non-performance of any term, condition, covenant or
provision of this Agreement by Grantee, its agents, employees, contractors, or subcontractors; or
(iii) activities conducted with respect to the Property by Grantee, its agents, employees, contractors, or subcontractors, including but not limited to, the construction, operation or
maintenance of the Property. In the event Grantor brings suit, including appeals, to enforce any of
the provisions of this Agreement, Grantor shall be entitled to recover from Grantee all reasonably
attorney’s fees, and costs, incurred by Grantor.

9. **Duration.** This Easement shall remain in full force and effect until the
requirements of Conceptual Permit No. 22838-47 that relate to the Property are successfully
completed (as indicated in writing by Grantee) or on January 1, 2032 (whichever date is
earlier), unless otherwise extended in writing by Grantor and Grantee. This Easement may be
amended, altered, released or revoked only by written agreement between the parties
hereof or their heirs, assigns or successors-in-interest, which shall be filed in the public
records in Flagler County, Florida.

10. **Governing Law.** This Agreement shall be governed by and interpreted in
accordance with the laws of the State of Florida. The Parties agree to first attempt to settle any
dispute arising out of or in connection with this Agreement by good faith negotiation. If the
Parties are unable to resolve amicably any dispute arising out of or in connection with this
Agreement, each shall have all remedies available at law or in equity.

11. **Recording.** Grantee, at its own expense, shall record this fully executed Agreement
in its entirety in the Public Records of Flagler County, Florida.

12. **Counterparts.** This Agreement may be executed in separate counterparts, each of
which is an original, and all of which together constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGES]
In Witness Whereof, the parties have signed and executed this Agreement on the respective dates below.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA

__________________________________________________________________________
Nate McLaughlin, Chairman

Date: ____________________________________________________________________

Execution of this Agreement was authorized by the Board of County Commissioners at its public meeting held on: December 5, 2016.

ATTEST:

__________________________________________________________________________
Gail Wadsworth, Comptroller and Clerk to the Board

APPROVED AS TO FORM:

__________________________________________________________________________
Al Hadeed, County Attorney
Signed, sealed and delivered in the presence of:

U.S. CAPITAL ALLIANCE, LLC,
a Florida limited liability company

Witnesses:

By: _____________________________
   Allan Feker, Manager

Date: _____________________________

STATE OF FLORIDA
COUNTY OF ______________________

The foregoing instrument was sworn to and subscribed before me this ___ day of ______________________, 2017, by ALLAN FEKER, who is personally known to me or who has produced ______________________ as identification.

Print Name: ___________________________
Notary Public, State of Florida
Commission No. ______________________
My Commission Expires: ___________________
EXHIBIT A

PARCEL A:
CONSERVATION AREA

ALL OF SECTION 17 AND SECTION 20, TOWNSHIP 14 SOUTH, RANGE 31 EAST, AND PORTIONS OF
SECTIONS 16 AND 21, TOWNSHIP 14 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 21, TOWNSHIP 14 SOUTH, RANGE 31 EAST,
BEARING S 87°26'13" W, ALONG THE SOUTH LINE OF SAID SECTION 21, A DISTANCE OF 2646.25
FEET; THENCE S 87°26'13" W, ALONG SAID SOUTH LINE A DISTANCE OF 1358.81 FEET TO THE
POINT OF BEGINNING OF THIS DESCRIPTION:

THENCE S 87°26'13" W, ALONG SAID SOUTH LINE OF SECTION 21 A DISTANCE OF 1286.70 FEET TO
THE SOUTHWEST CORNER OF SECTION 21; THENCE DEPARTING THE SOUTH LINE OF SECTION 21, S
86°59'32" W, ALONG THE SOUTH LINE OF SECTION 20, TOWNSHIP 14 SOUTH, RANGE 31 EAST, A
DISTANCE OF 2665.33 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 20; THENCE
CONTINUE ALONG THE SOUTH LINE OF SECTION 20, S 87°00'42" W, A DISTANCE OF 2664.85 FEET
TO THE SOUTHWEST CORNER OF SECTION 20; THENCE DEPARTING THE SOUTH LINE OF SECTION
20, N 02°02'45" W, ALONG THE WEST LINE OF SECTION 20, A DISTANCE OF 5321.15 FEET TO THE
NORTHWEST CORNER OF SECTION 20; THENCE DEPARTING THE WEST LINE OF SECTION 20, N
01°43'08" W, ALONG THE WEST LINE OF SECTION 17, TOWNSHIP 14 SOUTH, RANGE 31 EAST, A
DISTANCE OF 5287.16 FEET TO THE NORTHWEST CORNER OF SAID SECTION 17; THENCE DEPARTING
THE WEST LINE OF SECTION 17, N 87°27'35" E, ALONG THE NORTH LINE OF SECTION 17 A DISTANCE
OF 5312.21 FEET TO THE NORTHERN END OF THE CURVE WHERE THE CURVE IS 1000 FEET FROM
THE CENTERLINE OF AIRPORT ROAD; THENCE ALONG SAID CURVE IN THE NORTH RIGHT-OF-WAY
OF AIRPORT ROAD, CONCAVE SOUTHEASTERLY, HAVING A DELTA OF 07°25'11", A RADIUS OF 2800.00, AN ARC LENGTH OF 362.60 FEET, A CHORD BEARING OF S 47°52'38" W, AND A CHORD DISTANCE OF 362.34 FEET TO THE POINT OF TANGENCY IN SAID RIGHT-
OF-WAY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY S 44°10'02" W, A DISTANCE OF 250.00
FEET TO A CURVE CONCAVE NORTHWESTERLY, HAVING A DELTA OF 01°05'49", A RADIUS OF
2450.00 FEET, AN ARC LENGTH OF 46.91 FEET, A CHORD BEARING OF S 44°42'56" W, AND A CHORD
DISTANCE OF 46.91 FEET; THENCE DEPARTING THE RIGHT OF WAY OF AIRPORT ROAD, N 14°10'39"
W, A DISTANCE OF 51.47 FEET; THENCE N 53°38'41" W, A DISTANCE OF 894.33 FEET; THENCE S
51°35'29" W, A DISTANCE OF 974.13 FEET TO A NON-TANGENT CURVE CONCAVE NORTHWESTERLY;
THENCE ALONG SAID CURVE HAVING A DELTA OF 18°32'46", A RADIUS OF 812.00
FEET, AN ARC LENGTH OF 262.84 FEET, A CHORD BEARING OF S 62°51'10" W, AND A CHORD
DISTANCE OF 261.69 FEET TO A CURVE TO THE LEFT, CONCAVE SOUTHEASTERLY; THENCE ALONG
SAID CURVE HAVING A DELTA OF 42°18'27", A RADIUS OF 917.00 FEET, AN ARC LENGTH OF 677.12
FEET, A CHORD BEARING OF S 50°58'19" W, AND A CHORD DISTANCE OF 661.84 FEET TO A NON-TANGENT POINT; THENCE S 29°49'06" W, A DISTANCE OF 645.54 FEET; THENCE S 24°21'45" W., A DISTANCE OF 276.51 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF SECTION 21, TOWNSHIP 14 SOUTH, RANGE 31 EAST, THE POINT OF BEGINNING OF THIS DESCRIPTION.
EXHIBIT “E”
Minimum Insurance Requirements

During the term of this Agreement, Developer at its sole expense, shall provide insurance of such a type and with such terms and limits as noted below. Providing and maintaining adequate insurance coverage is a material obligation of Developer. Developer shall provide the County a certificate of insurance evidencing such coverage. Developer’s insurance coverage shall be primary insurance as respects to the County for all applicable policies. The limits of coverage under each policy maintained by Developer shall not be interpreted as limiting Developer’s liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in Florida and possess an A.M. Best rating of A-, VII or better, subject to the approval of the County’s Risk Manager.

The coverages, limits and/or endorsements required herein protect the primary interests of the County, and these coverages, limits and/or endorsements shall in no way be required to be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect the Developer against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the County's review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Developer under this Agreement.

The following insurance policies are required:

Commercial General Liability
Coverage must be afforded under a Commercial General Liability policy with limits not less than:
- $1,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage and Personal and Advertising Injury
- $1,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

Pollution and Remediation Legal Liability (Hazardous Materials)
For the purpose of this section, the term “hazardous materials” includes all materials and substances that are designated or defined as hazardous by Florida or Federal law or by the rules or regulations of Florida or any Federal Agency. If work being performed involves hazardous materials, the Developer shall procure and maintain any or all of the following coverage, which will be specifically addressed upon review of exposure.

Contractors Pollution Liability/ Environmental Impairment Coverage
For sudden and gradual occurrences and in an amount not less than $1,000,000 per pollution condition arising out of work performed under this Agreement. Coverage must include third party liability, remediation legal liability, and contingent transportation liability.

Policy must include coverage for Contractual Liability and Independent Contractors.

The County, a political subdivision of the State of Florida, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Developer. The coverage shall contain no special limitation on the scope of protection afforded to the County, its officials, employees, or volunteers.
Insurance Certificate Requirements

a. The Developer shall provide the County with valid Certificates of Insurance (binders are unacceptable) upon execution of this agreement.

b. The Developer shall provide a Certificate of Insurance to the County with a thirty (30) day notice of cancellation; ten (10) days’ notice if cancellation is for nonpayment of premium.

c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Developer to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.

d. In the event the Agreement term goes beyond the expiration date of the insurance policy, the Developer shall provide the County with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The County reserves the right to suspend the Agreement until this requirement is met.

e. The certificate shall indicate if coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the certificate will show a retroactive date, which should be the same date of the initial contract or prior.

f. The County shall be named as an Additional Insured with a Waiver of Subrogation.

g. The Agreement, Bid/Contract number event dates, or other identifying reference must be listed on the certificate.

The Certificate Holder should read as follows:
Flagler County Board of County Commissioners
Bunnell Fl

The Developer has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the County as an Additional Insured shall be at the Applicant’s expense.
EXHIBIT “F”
Regional Park Area Property

PARCEL B:
DISTRICT \ REGIONAL PARK PARCEL Q:

A PARCEL OF LAND BEING A PORTION OF SECTION 21, TOWNSHIP 14 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 21, AND RUN S. 87°26'24" W., ALONG THE SOUTH LINE OF SAID SECTION 21, A DISTANCE OF 2646.25 FEET; THENCE S. 87°26'13" W., ALONG SAID SOUTH LINE A DISTANCE OF 471.20 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF AIRPORT ROAD EXTENSION, A 100 FOOT RIGHT OF WAY; THENCE CONTINUE S. 87°26'13" W., ALONG SAID SOUTH LINE A DISTANCE OF 110.79 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SAID AIRPORT ROAD EXTENSION, SAID POINT ALSO BEING ON A CURVE AND BEING THE POINT OF BEGINNING; THENCE CONTINUE S. 87°26'13" W., ALONG SAID SOUTH LINE A DISTANCE OF 776.82 FEET; THENCE LEAVING SAID SOUTH LINE, N. 24°21'45" E., A DISTANCE OF 276.51 FEET; THENCE N. 29°49'06" E., A DISTANCE OF 645.54 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 917.00 FEET AND A CENTRAL ANGLE OF 42°18'27"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 677.12 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 812.00 FEET AND A CENTRAL ANGLE OF 18°32'46"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 262.84 FEET TO THE POINT OF TANGENCY; THENCE N. 51°35'29" E., A DISTANCE OF 974.13 FEET; THENCE S. 53°38'41" E., A DISTANCE OF 894.33 FEET; THENCE S. 14°10'38" E., A DISTANCE OF 51.47 FEET TO A POINT ON THE AFORESAID WESTERLY RIGHT OF WAY LINE OF AIRPORT ROAD EXTENSION; SAID POINT BEING ON A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 2450.00 FEET, A CENTRAL ANGLE OF 25°07'47", AND A CHORD BEARING AND DISTANCE OF S. 57°49'45" W., 1065.97 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 1074.56 FEET TO THE POINT OF TANGENCY; THENCE CONTINUE ALONG THE SAID WESTERLY RIGHT OF WAY LINE THE FOLLOWING 3 COURSES; S. 70°23'39" W., A DISTANCE OF 336.88 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1150.00 FEET AND A CENTRAL ANGLE OF 48°40'58"; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 977.13 FEET TO THE POINT OF BEGINNING.
FIRST AMENDMENT
TO THE
CONSERVATION PARK AREA AGREEMENT

THIS FIRST AMENDMENT TO THE CONSERVATION PARK AREA AGREEMENT (the "Amendment") is made and entered into this 27th day of August, 2018 (the "Effective Date"), by and between FLAGLER COUNTY, a political subdivision of the State of Florida, (the "County"), and U.S. CAPITAL ALLIANCE, LLC, a Florida limited liability company (the "Developer"). Together, the County and the Developer may be referred to collectively as the "Parties."

WITNESSETH:

WHEREAS, the County and the Developer entered into that certain Conservation Park Area Agreement dated April 24, 2017, recorded on May 5, 2017, in Official Records Book 2203, Pages 1444-1486 of the Public Records of Flagler County, Florida, setting forth the terms and conditions pursuant to which certain mitigation activities may be conducted by the Developer on County owned land (the "Conservation Park Area Agreement"); and

WHEREAS, the Agreement further contemplates the construction of a borrow pit, and the Parties desire to amend and modify certain provisions in the Agreement, related thereto, all as more specifically set forth herein.

NOW, THEREFORE, in consideration of ten dollars and the promises and provisions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Developer hereby agree to amend and modify the Agreement as follows:

1. Recitals. The above recitals are true and correct and are agreed to by the County and the Tenant as if such recitals were fully set forth herein.

2. Definitions. All capitalized terms contained herein and not otherwise defined shall be defined as provided in the Agreement.

3. Section 5 of the Agreement, entitled "Soil Excavation/Borrow Pit" is hereby revised as follows:

SECTION 5. SOIL EXCAVATION/BORROW PIT. The Developer may be permitted to engage in soil excavation for a borrow pit (the "Borrow Pit") within the north section of the Conservation Park Area, as generally depicted in Exhibit "C" attached hereto, provided that such activity is deemed by the County to be consistent with the terms and conditions of the Joint Stipulation. In such an event, the Developer shall be entitled to retain any and all rights to the fill material retrieved during the
construction of the Borrow Pit and any revenues generated therefrom. The Borrow Pit shall not exceed 20 acres in size and shall be constructed in accordance with an earthmoving, haul route, and reclamation site plan (the "Excavation Plan"), which shall be agreed upon by the Developer and the County Administrator, prior to the initiation of permitting and construction. The Excavation Plan shall include, but not be limited to, parameters for contouring and sloping the Borrow Pit, maintaining suitable buffers from wetland areas, and for integrating the Borrower Pit with the existing pond as depicted in Exhibit “C”. The Excavation Plan shall also include a requirement for the Developer to post a bond or other form of financial security to guarantee its performance. The Developer shall be responsible for obtaining all associated county, state, and federal regulatory permits and approvals on or before February 1, 2018 February 1, 2019 including, but not limited to, an amendment to the Conservation Easement, if required. The Developer shall complete all excavation and reclamation activities within 365 days after construction of the Borrow Pit is initiated. The Developer agrees to indemnify, defend and hold harmless the County from any suits, actions, claims, losses or damage of any nature arising out of any damage to person or property caused by or arising from any act, omission, performance or nonperformance of the Developer, its agents, servants, employees, or others under the Developer’s direction or control; and to pay the County all losses, damages, expenses, costs, and attorney’s fees, that the County sustains because of a default by the Developer under its permits.

In anticipation of roadway wear and tear from Borrow Pit construction, Developer agrees to contribute $10,000 to Flagler County to be utilized for Conservation Area 40-Grade Road improvement. These funds will be utilized by Flagler County to improve 40-Grade Road prior to heavy truck traffic from Borrow Pit and silviculture activities.

The financial assurance discussed in the preceding paragraph shall be callable by Flagler County and be composed as follows:

- 100% of the costs of restoration expenses. The restoration costs shall be reviewed and approved by Flagler County.
- ¼ of the total construction cost per all active phases. The construction costs shall be reviewed and approved by Flagler County. Phases are identified in the "Hunters Ridge Fire Lake" plans, file no. 1609-1, date 06-14-2018, as follows:
4. Except as specifically modified hereby, all terms and conditions set forth in the Agreement remain unmodified and in full force and effect. The County and the Developer each represent, warrant and acknowledge to each other that there are no other amendments, modifications or supplements to the Agreement other than those amendments set forth in this Amendment. In the event of any conflict between the terms and provisions of the Agreement and this Amendment, the terms and provisions of this Amendment shall prevail and control.

[The Remainder Of This Page Intentionally Left Blank]
IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives on the dates shown below.

Signed, sealed and delivered in the presence of:

Witnesses:

John C. Dukes
Print Name: John C. Dukes

Kevin Wolfe
Print Name: Kevin Wolfe

U.S. CAPITAL ALLIANCE, L.L.C,
A Florida limited liability company

By: HRVR Manager LLC, a Florida limited liability company, Manager of U.S. Capital Alliance, LLC, a Florida limited liability company

By: HRVR LLC, a Florida limited liability company, Manager of HRVR Manager LLC, a Florida limited liability company

By: Gregory Davis, Manager of HRVR LLC, a Florida limited liability company

South Carolina
STATE OF FLORIDA
COUNTY OF Horry

The foregoing instrument was sworn to and subscribed before me this 21 day of August 2018, by Gregory Davis, Manager of HRVR LLC, a Florida limited liability company, as the Manager for HRVR LLC, a Florida limited liability company, as the Manager for HRVR Manager LLC, a Florida limited liability company, as Manager of U.S. Capital Alliance, LLC, a Florida limited liability company, who is personally known to me or who has produced Drivers License as identification and who has sworn or affirmed that he has authority to sign the Amendment of behalf of U.S. Capital Alliance, LLC, a Florida limited liability company and to bind said company to the terms and conditions set forth herein.

Ethan Sartain
Print Name: Ethan Sartain
Notary Public, State of Florida
Commission No. LIA
My Commission Expires: 2-23-28

Page 4 of 5
FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS

Gregory L. Hansen, Chair

Date: 8/27/18
Execution of this Agreement was authorized by the Board of County Commissioners at its public meeting held on August 20, 2018.

ATTEST:
Lisa Fincello, S.C.
Tom Bexley, Clerk of the Circuit Court and Comptroller

APPROVED AS TO FORM:
Al Hadeed, County Attorney
SUBJECT: QUASI-JUDICIAL – Proposed Mediation Settlement – Denial of Rezoning from R/C (Residential/Limited Commercial) to PUD (Planned Unit Development) for Beachwalk Planned Unit Development (PUD) located at 4931 North Oceanshore Boulevard; Parcel Number: 40-10-31-5137-000H0-0000; 12.44+/- acres. Owner: LRA Rio, LLC/Applicant: Atlee Development Group, Inc. (Application #3150/Project #2018080036).

DATE OF MEETING: June 17, 2019

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communications. The request is for consideration of an informal mediation settlement following the March 18, 2019 denial of a rezoning from R/C (Residential/Limited Commercial) District to PUD (Planned Unit Development) District for development of a single-family subdivision. The subject parcel is 12.44+/- acres in size and is located North of Jungle Hut Road between North Oceanshore Boulevard (a/k/a State Road A1A) and Hammock Dunes Parkway.
Following the Board’s denial of the rezoning request on March 22, 2019, counsel for the applicant notified the County of their intent to pursue mediation and the formal special magistrate hearing through the process outlined in Section 70.51, Florida Statutes. The statute allows a landowner, who feels that a development order is unreasonable or unfairly burdens the landowner’s property rights, to seek relief through a special magistrate proceeding prior to seeking judicial relief.

The applicant and the County Administrator determined to attempt an informal mediation without a magistrate present and without formal legal evidence proceedings called for in Section 70.51. The statute allows the parties to pursue an informal mediation of their own design, and this is what the County Administrator and the applicant chose to pursue. The parties viewed informal mediation as an efficient first step before investing substantial expenditures and time for formal proceedings with an appointed special magistrate.

On May 23, 2019 both parties met to discuss potential options for the proposed development. The parties agreed to invite all speakers who addressed the proposed project at the Board’s March public hearing. The parties agreed to allow their maximum participation as stakeholders. While not all the speakers were available to attend the May 23rd meeting, written comments were requested from those unable to attend. Three of the prior speakers did in fact attend. The three speakers were actively involved in the mediation discussion and its outcome, although none were directly responsible for the proposal presented by the applicant in the mediation. Neither the County nor the applicant sought the direct approval of the speakers to the proposed mediation concepts.

County Growth Management staff believe that the alternative proposed by the applicant as a result of the informal mediation is worthy of the Board’s consideration.

The informal mediation resulted in modifications as depicted graphically on the attached hand-annotated site plan sketch. The specifics of the proposal are as follows:

1. Adding an additional ten feet to the proposed 10 foot wide landscape buffer (proposed Tract D) adjoining Jungle Hut Road, for a total landscape buffer width of 20 feet;

2. Maintaining the lot depth and lot area by shifting lots 1 through 14 northward to accommodate the additional Jungle Hut buffer width;

3. Shifting lot 21 and its location adjoining the State Road A1A landscape buffer, with the new lot 21 located internal to the development and placing the former lot 21 and the West one-half of lot 22 into an extended buffer area (this was proposed due to the location of old-growth canopy trees on the site and the desire for additional buffering along A1A);

4. Adding a footpath around the reconfigured Pond 1, including two cul-de-sacs bounding it on each side, also resulting in the elimination of the racetrack road layout as well as four lots from the subdivision, taking the total lot count from 54 to 50 lots; and

5. Payment of $25,000 to the County to enhance the A1A Scenic Corridor at Jungle Hut Road.
The applicant has also submitted a written statement (attached) explaining its position in support of rezoning to PUD. With the decreased lot count, the new cul-de-sac roadway configuration, and the increased Jungle Hut buffer, the open space area will be increased.

The text of a draft ordinance (attached) has been prepared consistent with the applicant’s proposed changes. The draft provides the Board and the public with what an ordinance would look like. Approval of the ordinance is not sought at this meeting but if the mediation result is approved staff requests that the ordinance be tabled to the next Board meeting to finalize it, along with the site plan.

The applicant’s proposed changes were presented to the Scenic A1A PRIDE Committee; the Committee’s review letter is attached.

**RECOMMENDATION:** As this is an informal mediation, the staff request is for the Board to either approve, deny or modify the mediation outcome. The staff will place the Board’s action within the language of Section 70.51, Florida Statutes, depending upon the Board’s determination. If the Board denies the informal mediation, then the matter proceeds to the Special Magistrate as required by the statute.

**ATTACHMENTS:**
1. Applicant’s Narrative Response
2. Draft Site Plan
3. Draft Ordinance
4. BCC Adjudicatory Order Denying PUD Rezoning – March 2019
5. Applicant’s Letter Notice for Sec. 70.51, F.S., Mediation
6. Applicant’s Supplemental Mediation Letter
7. Scenic A1A PRIDE Committee Review Letter
8. Public notice
WRITTEN STATEMENT IN SUPPORT OF BEACHWALK PLANNED UNIT DEVELOPMENT

BACKGROUND

The purpose and intent language in the County’s Planned Unit Development (PUD) ordinance supports PUDs that “provide an opportunity for innovative urban design techniques, improved use of land, protection of valuable natural features in the community, desirable land use mix, open space, and more economical public services.” FCLDC s. 3.03.20.A. We list below the differences between:

CURRENT ZONING: R/C

1. Current zoning requires no A1A buffering for residential unless the site is south of SR 100.
2. Current zoning would allow single family homes with septic systems.
3. Current zoning would allow 1000 square foot homes, on 9,000 square foot lots.
4. Current zoning does not require residential use buffers along Jungle Hut Road, the east boundary, or the Parkway.

PROPOSED PUD

Our PUD includes:

1. 30-foot buffering of an undisturbed corridor on our west boundary leaving the natural vegetation maintaining more of the “Hammock” character along A1A.
2. Beachwalk will have a continuous 20-foot undisturbed buffer along Jungle Hut Road.
3. Beachwalk will have an additional 5-foot undisturbed buffer west of the existing 30-foot buffer along the east side of our site. Thus, a continuous 35-foot undisturbed buffer exists. We confirmed with County staff that at least 30 feet of undisturbed buffer lies between the eastern public path and our eastern property line.
4. We agreed to reduce the number of lots to 50, which preserves two substantial areas within our site as undisturbed green space.
5. As part of the enhanced preservation, we have eliminated the large lot 21 in the NW corner of Beachwalk, to further enhance the undisturbed buffer area that has a large concentration of hardwoods, again further protecting the ambiance of the Hammock.
6. We will extend existing sewer lines 3,600 feet at our expense, at an estimated $300,000, and perhaps substantially more, so we would have city sewer on every lot. No septic systems, which is one of the top Flagler County priorities.
7. Our extending the sewer will enable others to tie into the sewer line, facilitating the removal of septic systems currently in use, consistent with County legislative goals.

8. Our homes will be much larger than the 1,000 SF minimum allowed (our typical homes on file with the County on this project range from 1,800 – 2,400).

9. We have agreed to a footpath encircling the retention pond for connectivity between the east and west side of the retention pond located in the northerly midsection of the site. That pond was relocated to improve the aesthetics of the site from the original, centrally located pond.

10. We will have in excess of 34% open space.

11. 60% of our lots are adjacent to or face undisturbed buffers or lakes in the community.
- The maximum building height is stated in the Development Agreement as two stories above a garage, not to exceed 50 feet in height.
- Home Owners Association will be responsible for maintenance of the proposed ponds and stormwater systems. Roads will be privately owned and maintained by the HOA.
- S Europe and protective water will be provided by the City of Palm Coast.
- Fire services provided by Flagler County.
- Minimum lot area is 2,500 sq. ft.
- Average density: 6.5 units/acre.
- Anticipated price range: $300,000 to $400,000
- Anticipated lot prices: $15,000.
- Major thoroughfares will be located as shown on the map.
- Short term vacation rentals shall be prohibited.

NOTE WITH ADDED 10' BUFFER ALONG JUNGLE HUT Rd. L 21A IN LOT 21 THE OPEN SPACE % WILL GO UP SUBSTANTIALLY

ATTACHMENT 2
ORDINANCE NO. 2019 – ___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AMENDING THE ZONING CLASSIFICATION OF A TOTAL OF 12.44 ACRES, MORE OR LESS, BEING PARCELS H AND I OF PROPERTY APPRAISER’S SUBDIVISION NUMBER 379, PARCEL NUMBER 40-10-31-5137-000H0-0000, FROM R/C (RESIDENTIAL/LIMITED COMMERCIAL) TO PUD (PLANNED UNIT DEVELOPMENT) DISTRICT; ADOPTING A PUD DEVELOPMENT AGREEMENT AND CONCEPTUAL PUD SITE DEVELOPMENT PLAN FOR THE BEACHWALK PLANNED UNIT DEVELOPMENT; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, LRA Rio, LLC (hereafter the “owners”, with “developer” used interchangeably), are the owners of Parcel #40-10-31-5137-000H0-0000, which is 12.44 acres, more or less, in size as more particularly described in Exhibit “A” attached hereto and made a part hereof (hereafter the “subject property”); and

WHEREAS, the owners of the subject property are seeking the approval of this Ordinance rezoning the subject property from R/C (Residential/Limited Commercial) to PUD (Planned Unit Development) zoning district and creating the Beachwalk Planned Unit Development (hereafter the “Beachwalk PUD”); and

WHEREAS, the subject property is designated as Mixed Use: Low Intensity, Low- to Medium-Density on the 2010-2035 Flagler County Future Land Use Map; and

WHEREAS, Future Land Use Policy A.1.1.3 of the 2010-2035 Flagler County Comprehensive Plan lists Planned Unit Developments among the listed uses permitted within the Mixed Use: Low Intensity, Low- to Medium-Density Future Land Use designation; and

WHEREAS, Future Land Use Policy A.1.1.3 of the 2010-2035 Flagler County Comprehensive Plan sets the maximum density/intensity of uses as: 1.0 to 7.0 residential units per gross acre and occupying a minimum of 15% and a maximum of 70% of the development area; retail and office uses with a maximum Floor Area Ratio (FAR) of .2 and occupying a minimum of 15% and a maximum of 50% of the development area; and open space occupying a minimum of 25% of the development site; and

WHEREAS, approval of this ordinance creating the Beachwalk PUD is consistent with the 2010-2035 Flagler County Comprehensive Plan; and

WHEREAS, this Ordinance and its attached Exhibits shall serve as the PUD Development Agreement for the Beachwalk PUD; and
WHEREAS, on January 8, 2019, the Planning and Development Board conducted a public hearing on this request and voted to continue this request to its February 12, 2019 regular meeting; and

WHEREAS, on February 12, 2019, the Planning and Development Board conducted a public hearing on this request and voted (5-2) to recommend approval of the rezoning request; and

WHEREAS, on March 18, 2019, the Flagler County Board of County Commissioners held a public hearing on this request and unanimously voted (5-0) to deny the ordinance creating the Beachwalk PUD on the basis, among other considerations, that the submittal did not demonstrate compatibility with the surrounding neighborhood; and

WHEREAS, following the Board’s denial, the applicant requested a mediation process as outlined in Section 70.51, Florida Statutes; and

WHEREAS, on May 23, 2019, the County and the applicant participated in an informal mediation, together with input from several interested parties, resulting in the applicant proposing: the reduction in the lot count from 54 to 50 lots; a new cul-de-sac roadway configuration; increasing the width of the landscape buffer along Jungle Hut Road from 10 feet to 20 feet; and shifting the location of lot 21 and decreasing the size of lot 22 so as to increase the open space buffer area adjoining State Road A1A; and

WHEREAS, the County and the applicant believe that the amended development plan for the Beachwalk Planned Unit Development demonstrates an effort of the part of the applicant to achieve compatibility with the adjacent neighborhood resulting in a better project over the conventional zoning; and

WHEREAS, public notice of this action has been provided in accordance with Section 125.66, Florida Statutes, and Section 2.07.00, Flagler County Land Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. FINDINGS
A. The above Recitals are incorporated herein as Findings of Fact.

B. The Board of County Commissioners, pursuant to Section 3.04.02 of the Flagler County Land Development Code, finds as follows:

1. The proposed Beachwalk Planned Unit Development (PUD) does not adversely affect the orderly development of Flagler County and complies with applicable Comprehensive Plan goals, objectives and policies; and

2. The proposed Beachwalk PUD will not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood.
Section 2. REZONING
A. The subject property containing 12.44 acres, more or less, and legally described in Exhibit "A" attached hereto and made a part hereof is hereby rezoned from R/C (Residential/Limited Commercial) to PUD (Planned Unit Development).

B. The Flagler County Official Zoning Map shall be amended to reflect this rezoning.

Section 3. ADOPTION OF DEVELOPMENT AGREEMENT
A. This Ordinance and its Exhibits attached hereto shall serve as the PUD Development Agreement for the Beachwalk Planned Unit Development (PUD).

B. The Board of County Commissioners hereby adopts the PUD Development Agreement for the Beachwalk PUD, the boundaries of said PUD as described in the legal description included at Exhibit “A” and attached hereto.

C. Development within the boundaries of the Beachwalk PUD as approved shall take place consistent with the Flagler County Land Development Code as may be modified or amended, this Ordinance, and the Conceptual PUD Site Development Plan included at Exhibit “B” and attached hereto. The requirements of this Ordinance supersede any inconsistent provisions of the Flagler County Land Development Code or other ordinances of the County.

D. All subdivision improvements, common areas, buffer tracts, and roadway tracts shall be privately owned and maintained by a homeowner’s association or other entity without recourse to Flagler County.

E. Permitted uses and structures within the Beachwalk PUD shall be:
   1. Single family dwellings on individual lots, but not mobile home dwellings.
   2. Recreational areas accessory to residential developments.
   3. Home occupations subject to County Home Occupation Guidelines.

F. Uses within the Beachwalk PUD as herein established shall rely on those uses and requirements listed within the R-1d (Urban single-family residential) district, with the exception of the following dimensional requirements which shall vary from those listed for the R-1d district:

   Maximum number of lots: 50 lots
   Minimum lot area: 5,500 s.f.
   Minimum lot width: 50 feet
   Minimum lot depth: 110 feet
   Minimum front setback: 20 feet
   Minimum rear setback: 10 feet
   Minimum side setback (interior lot): 5 feet
Minimum side setback (street side): 20 feet
Maximum building height: Not to exceed 35 feet
Minimum living area: 1,800 s.f.
Maximum impervious area: 60%

Notes:
1. The minimum setbacks listed above shall apply to all structures, pools, pool decks, and screen enclosures.
2. Minimum lot width shall be measured at the front setback line.
3. Maximum building height shall be the vertical distance from the established grade at the center of the front of the building to the mean height level between the eaves and ridge for a gable, hip and gambrel roofs.

G. The Beachwalk PUD will require final plat approval prior to the sale of individual lots. The subdivision may be developed in multiple phases. All infrastructure necessary to support each phase shall be constructed within that phase or sufficient surety provided in the form of a performance bond or other instrument as approved by the County Attorney as a condition of this PUD approval. Adequate emergency vehicle access and turn-arounds shall be provided at all times.

H. Development of the Beachwalk PUD will require extension of the City of Palm Coast’s sanitary sewer collection system from its present limits at the master lift station at the Hammock Dunes Bridge to the subject property, a distance of approximately 3,600 linear feet. While the developer of the Beachwalk PUD will work with the City of Palm Coast to extend the system, the County requires that assurances be provided in any agreement that the system will be upsized so as to accommodate future connections and, for such purposes, the County will require the ability to review and comment on extension plans prior to issuance of any Florida Department of Environmental Protection permit for the extension of the system and/or Florida Department of Transportation permit for placement of sewer force mains within the right-of-way of State Road A1A.

I. A County Right-of-Way Utilization permit will be needed for any roadway, driveway, or utility installation within the right-of-way of Jungle Hut Road.

J. A waiver of the secondary means of ingress and egress requirement (FCLDC Section 4.06.02.A.4) and emergency access requirement (FCLDC Section 4.06.02.M) by the Board of County Commissioners will be necessary unless a second subdivision entrance onto Jungle Hut Road or State Road A1A (subject to permit issuance by the Florida Department of Transportation) is constructed.

K. Vehicular access to Hammock Dunes Parkway shall be prohibited.

L. A concrete sidewalk or shell path with a width of no less than three feet (3’) shall be installed by the developer to surround Pond 1.
M. No short-term vacation rentals will be permitted within the Beachwalk PUD and such prohibition shall be included within the Declaration of Covenants and Restrictions for the Beachwalk subdivision with the ability – but not the obligation – to enforce violations of this prohibition by the County.

N. An entry feature and sign may be installed at the entrance on Jungle Hut Road. The entry feature may consist of a wall or fence not to exceed six feet (6’) in height with a maximum sign area not to exceed 32 square feet. Any sign that is installed may be double-faced, with the 32 square foot area limitation applicable to a single-face of the double-faced sign (i.e., a double-faced sign may have two 32 square foot sign faces).

O. All lots within Beachwalk PUD, including common areas and street lights, will be subject to the County’s Marine Sea Turtle lighting requirements of the County’s Land Development Code.

P. While no trees on the subject property have been designated as a specimen or historic tree by the Board of County Commissioners, the developer shall make every reasonable effort to preserve existing Southern live oaks (Quercus virginiana) and Sand live oaks (Quercus geminata) with a diameter at breast height (DBH) of ten inches (10”) or greater. Such reasonable preservation efforts shall include, but not be limited to, onsite preservation in situ as part of a common area or buffer tract, relocation to a common area or buffer tract, and similar measures as recommended by an International Society of Arboriculture Certified Arborist.

Q. All utility service drops shall be installed underground.

R. Natural landscape buffers areas shall be designated as buffer tracts and provided as follows:

1. a minimum of thirty feet (30’) in width along the West boundary of the Beachwalk PUD, adjacent to State Road A1A;

2. a minimum of twenty feet (20’) in width along the South boundary of the Beachwalk PUD, adjacent to Jungle Hut Road; and

3. a minimum of five feet (5’) in width along the East boundary of the Beachwalk PUD, adjacent to the County’s Greenway parcel.

All natural landscape buffer areas shall be within buffer tracts, to be owned and maintained by a homeowner’s association or similar entity without recourse to Flagler County. Invasive species may be removed from any natural landscape buffer area; however, only hand tools may be used within natural landscape buffer area. The subdivision entrance(s), including entrance features and signs, and any secondary means of ingress and egress, including an emergency access easement, may be permitted within any natural landscape buffer area. In the event that any portion of the natural landscape buffer areas does not have sufficient natural plantings so as to provide a completely opaque barrier a minimum of six feet (6’) in
height, then the developer shall augment the natural landscape buffer areas with such native vegetation, including ground cover, shrubs, understory trees, and canopy trees, so as to provide an opaque buffer within five years of planting.

A non-vehicular access easement shall be included on the final plat to coincide with the perimeter landscape buffers, excepting therefrom: the subdivision entrance(s) on Jungle Hut Road; the access for the lift station tract from Jungle Hut Road; and any subdivision entrance onto State Road A1A (subject to permit issuance by the Florida Department of Transportation).

S. The Finished Floor Elevation for lots shall be those depicted on the approved subdivision construction plans. Any variation shall be subject to the approval of the County Development Engineer at the time of building permit application; however, no elevations may be lowered below that necessary to comply with the adopted drainage system level of service standard of the twenty-five year, twenty-four hour duration, design storm event.

T. Construction trailers may be permitted on any lot within the subdivision prior to final plat approval in conjunction with the issuance and continuation of a land development permit. Construction trailers may not remain within the subdivision following expiration or completion of a land development permit.

U. Model homes may be permitted following final plat approval. A maximum of two of the lots may be used as a model home; the model homes may also be used as temporary sales centers.

V. Recreation amenities shall be provided within the areas depicted on the Conceptual Site Development Plan at Exhibit “B”, with the specific amenities to be installed as part of the subdivision improvements as part of the final plat. At a minimum, these amenities shall include, but not be limited to:

1. a covered pavilion with a minimum area of 200 square feet under roof;
2. a picnic table and park bench; and
3. a tot lot, consisting of a minimum area of 1,000 square feet and providing a minimum of five (5) activities: climbing, swinging, spinning, sliding, balancing, jumping, hanging, creative play, crawling, hiding, rocking, rolling, bouncing, digging, sand and water play.

W. Variances shall be subject to the County’s variance procedures as provided in the Land Development Code.

X. Upon adoption of this Ordinance, the owner shall be required to submit and obtain approval of a Planned Unit Development (PUD) Site Development Plan, Preliminary Plat, and Final Plat, including the issuance of all other
agency permits prior to commencement of development of the subject property.

Y. Upon approval of the final plat and due no later than the date of recording of the final plat by the owner, the owner shall pay to the County the sum of Twenty-five Thousand Dollars ($25,000) for use by the County at its discretion to enhance the Scenic A1A Corridor.

Z. The provisions of this Ordinance shall be binding upon successors and assigns, including individual successor lot owners, to the extent applicable.

AA. This Ordinance shall be effective as of the date provided herein and shall remain effective until amended or rescinded.

BB. The owners shall signify their consent to this Ordinance establishing the Beachwalk PUD through their signature on the owner’s consent attached hereto at Exhibit “C” and the recording of this Ordinance in the Public Records of Flagler County, Florida.

Section 4. EFFECTIVE DATE
This Ordinance shall take effect upon Official Acknowledgement by the Secretary of State that the Ordinance has been filed.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS 17TH DAY OF JUNE, 2019.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

By: ____________________________
   Donald O’Brien, Jr., Chair

ATTEST: Approved as to Form:

By: ____________________________
   Tom Bexley, Clerk of the Circuit Court and Comptroller

______________________________
   Albert J. Hadeed, County Attorney
EXHIBIT “A”
Legal Description

PARCEL 1

The South 200 feet, when measured at right angles to South line thereof, of that part of Section 40, Township 10 South of Range 31 East, lying East of the right of way of the Ocean Shore Boulevard now designated as State Road A1A, containing 3.25 acres, more or less.

PARCEL 2

Being a part of Section 40, Township 10 South, Range 31 East, and more particularly described as follows: Beginning at the Southeast corner of the said Section 40, as a point of reference and running thence North 19°57'45" West, along the Easterly boundary of the said Section 40, a distance of 211.71 feet, to the point of beginning of this description; thence South 89°11' West, and parallel with the South boundary of the said Section 40, a distance of 1049.54 feet, to an intersection with the Easterly boundary of the 50 foot right of way of State Road No. A1A; thence North 16°17'27" West, along said Easterly right of way boundary, a distance of 362.74 feet; thence North 89°11' East, a distance of 1024.95 feet, to an intersection with the Easterly boundary of the said Section 40; thence South 19°57'45" East, a distance of 370.06 feet, to the point of beginning of this description. Said parcel contains 8.32 acres, more or less, and bearings are referred to the True Meridian.

Less and except from the foregoing any portion of the above described property lying within the road rights-of-way of State Road A1A and Hammock Dunes Parkway, as reflected on survey by American Surveying & Mapping, Job No. ASM49885, dated August 9, 2005, as revised.
EXHIBIT “C”
Owner’s Consent

COMES NOW, the Owner on behalf of itself and its successors, assigns and transferees of any nature whatsoever, and consents to and agrees with the covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Beachwalk PUD.

WITNESS my hand and official seal this ____ day of ______________, 20___.

WITNESSES:

___________________________  ___________________________

Daniel Baker  
VP of ACP-Communities, LLC  
(as authorized representative of  
LRA Rio, LLC)

The foregoing instrument was acknowledged before me this ____ day of ______________, 20___. by Daniel Baker, who is personally known to me or produced ___________________________ for identification and who did/did not take an oath.

WITNESS my hand and official seal this ____ day of ______________, 20___.

___________________________

Signature of Notary Public

___________________________

Printed Name

(SEAL)
FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

Owner: LRA Rio, LLC
Applicant: Atlee Development Group, Inc.
Parcel: 4931 North Oceanshore Blvd.
40-10-31-5137-000H0-0000 Application No.: 3150

ADJUDICATORY ORDER DENYING REQUEST FOR REZONING FROM R/C TO PUD

Procedural History

In August 2018, Atlee Development Group, Inc. (Atlee) applied for a rezoning of Parcel # 40-10-31-5137-000H0-0000 from Residential Commercial (R/C) to Planned Unit Development (PUD) on behalf of the property owner LRA Rio, LLC. The Flagler County Technical Review Committee (TRC) reviewed the application at its regular meeting on September 19, 2018. The TRC identified a number of issues to be addressed before the application could be forwarded to the Flagler County Planning and Development Board. The TRC followed up on its issue identification, reviewing the application at its regular meeting on October 17, 2018, at which it provided additional comments in response to Atlee’s latest submittal. The TRC again reviewed the application at its regular meeting on November 21, 2018, and yet again provided comments for Atlee to address.

The Planning and Development Board considered Atlee’s application at its regular meeting on January 8, 2019. The Assistant County Attorney, who also provides counsel to the TRC, sent a memorandum to the Planning and Development Board stating that outstanding issues from TRC review remained and that the application was not ready to be heard and should be postponed. As a result, the Planning and Development Board continued the item to its next meeting by a majority vote. In the interim, the applicant resubmitted its rezoning proposal to the Planning and Zoning Director with minor modifications. However, the resubmittal was not reviewed by the TRC.

The Flagler County Planning and Development Board heard the rezoning application again on February 12, 2019. By majority vote, the Planning and Development Board voted to recommend the Board of County Commissioners (hereafter “Commission”) approve the rezoning. The application came to the Commission for review at its regular meeting on March 18, 2019, in a quasi-judicial hearing pursuant to Section 3.07.05.D of the Land Development Code (“LDC”).

Prior to the commencement of the hearing, Commissioners disclosed their ex parte communications on the record. The applicant Atlee bore the burden of demonstrating that the proposed rezoning complied with all applicable provisions of the Flagler County Comprehensive Plan, the Scenic A1A Overlay District and Corridor Management Plan, and the LDC.
Prior to the hearing, the Commission had been furnished with the following record as part of the agenda package: the Staff Agenda Memo #9a dated March 18, 2019; the Planning Director’s Technical Staff Report regarding Application #3150; Atlee’s Application for Rezoning #3150 dated August 2, 2018; the TRC’s comments for its September, October, and November 2018 meetings; Atlee’s response to the October 2018 TRC comments; an excerpt from the County’s 2019 Legislative Priorities; correspondence from the Scenic A1A Pride Committee; the Assistant County Attorney’s memorandum to the Planning and Development Board dated January 8, 2019; the Assistant County Attorney’s letter to Mr. Ansbacher dated February 8, 2019; written public comments from Hammock resident Dennis Clark, the Dunes Community Development District, and an anonymous individual; and notice of the Commission’s quasi-judicial hearing provided to landowners within 300 feet of the subject parcel, as well as a newspaper advertisement. In addition, immediately prior to the Commission meeting, the Planning Director furnished to the Commission a tree survey submitted by Atlee and the minutes of the Planning and Development Board from its February 2019 meeting. All of these items were filed with the Clerk of the Court as the official record keeper of the Commission.

The Commission then heard from the Planning Director who presented the rezoning application and answered inquiries of the Commission. The Commission next heard from Atlee’s counsel, Mr. Ansbacher, who provided further details and answered questions of the Commission. The Commission then heard from thirteen individuals from the public before, finally, hearing a rebuttal from Mr. Ansbacher.

**Findings and Legal Conclusions**

On March 18, 2019, after fully considering the application, the written record and the testimony, and after Commission discussion of issues related to buffers, amenities, drainage, landscaping, lot size and setbacks, and matters related to compatibility with the surrounding areas, the Commission by unanimous vote found, determined, and concluded that the requested rezoning from R/C to PUD is not consistent with the Flagler County LDC, the Comprehensive Plan, and the Scenic A1A Corridor Management Plan and is not compatible with surrounding areas. This determination includes but is not limited to the following:

- The proposed subdivision is contiguous to State Road A1A and Jungle Hut Road, both part of a National Scenic Byway subject to a land development overlay district and a Corridor Management Plan, with Jungle Hut Road being one of three public gateways to the beach along the byway. In order to have the roads designated as a National Scenic Byway, the County had to develop and support a master plan for the corridors that addressed the intrinsic resources of the corridors. Objective A.2.3 of the Flagler County Comprehensive Plan requires the County to ensure development along the byway is consistent with the Corridor Management Plan. In addition, as referenced in the backup materials, the Florida Land and Water Adjudicatory Commission (FLWAC) found the applicability of the Corridor Management Plan as part of Comprehensive Plan analysis of land development proposals along the National Scenic Byway, and that its application specifically requires context sensitive design among other planning considerations. See Ginn-LA Marina LLP et al v. Flagler County, Final Order, Case No. APP-10-007, at
pages 8 - 10, and 16, affirming the Recommended Order, DOAH Case No. 10-9137DRI (April 6, 2011) at pages 25 – 27, 35 – 36.

• The Corridor Management Plan requires context sensitive design for development occurring within the corridor, meaning that whatever is built around the corridor should fit in or blend with the location where it is proposed. The applicant failed to demonstrate compliance with the Corridor Management Plan.

• Contrary to the requirements of the Corridor Management Plan, the proposed perimeter vegetative buffers on the two National Scenic Byways (State Road A1A and Jungle Hut Road) are insufficient in width, and the proposed subdivision is incongruous with the byways.

• The proposed subdivision, with a “racetrack” layout and minimal open space, does not fulfill the purpose of PUD zoning, as delineated in LDC Section 3.03.20.A, to provide for creative, innovative and flexible concepts which a strict application of the R/C zoning would not allow, such as innovative design techniques, improved use of land and protection of valuable natural features.

• The proposed subdivision would adversely affect the orderly development of the County.

• The lots of the proposed subdivision are smaller than allowed under R/C zoning.

• The proposed 1,800 square foot minimum house size on 3,500 square foot lots would not leave sufficient open space or room for the required 40% index tree preservation and would result in insufficient setbacks between homes.

• The amenities are insufficient in size and quality.

• The proposed subdivision lacks a secondary emergency access required by LDC Section 4.06.02.M.

Appeal and Dispute Resolution

On March 18, 2019, after the Commission’s vote to deny the application for rezoning, the applicant invoked its right to seek relief through the assignment of a special magistrate pursuant to Section 70.51, Florida Statutes. As final action of the Commission on this matter, the applicant may petition the Circuit Court for writ of certiorari within thirty days of approval of this Adjudicatory Order pursuant to LDC Section 3.07.05.E. or within thirty days after the conclusion of proceedings stayed by the invocation of the alternative dispute resolution under the Ch. 70, Florida Statutes.

APPROVED, this 15th day of April 2019.

Donald T. O’Brien Jr., Chairman of the Flagler County Board of County Commissioners

Attest:

Tom Bexley, Clerk of the Circuit Court and Comptroller

Approved as to form:

Kate Stangle, Special Counsel to Flagler County

Copy provided to Sidney Ansbacher, Attorney for Atlee.
March 22, 2019

VIA EMAIL DELIVERY
dobrien@flaglercounty.org

Chair Donald O’Brien, Jr.
Flagler County Commission
1769 E. Moody Boulevard
Building 2
Bunnell, Florida 32110

Re: Statutory demand for assignment of, and referral to, Special Magistrate on behalf of Atlee Development Group, pursuant to s. 70.51, F.S.*

Dear Chair O’Brien:

I write on behalf of the Atlee Development Group to demand mandatory assignment of, and referral to, a special magistrate pursuant to s.70.51, F.S., on the Flagler County Commission’s denial of the Beachwalk Planned Unit Development (PUD) rezoning application and implementing site plan, on March 18, 2019 (the Development Orders). Consistent with that statute, I state:

1. Atlee holds an equitable interest in the property legally described in the attached Exhibit “A” (the Property). Atlee is the contract purchaser of the Property. Florida law holds that the contract purchaser holds an equitable interest in the subject real estate. See, e.g., Waldorff Insurance & Bonding, Inv. v. Eglin Natl Bank, 453 So. 2d 1383, 1385 (Fla. 1st DCA 1984). Atlee therefore has standing to bring this action pursuant to s. 70.51(2)(d), F.S.¹

2. Pursuant to s. 70.51(3), Atlee contends the following shows the Development Orders meet the definition of “[d]evelopment order” under s. 70.51(2)(b). As issued by Flagler County, by and through its Board of County Commissioners, they are “unreasonable or unfairly burden[ ] the use of the owner’s real property ....”

3. Subsection 70.51(6)(c) requires a brief statement on the impact of the Development Orders on the proposed use of the Property. This is best addressed in two stages. First, explaining the applicable standard under s.

* Substantially identical claims as in March 22, 2019, notice, as modified on March 25, 2019.
¹ Contrast that subsection’s inclusion of one “with a legal or equitable interest in real property who ... received a development order, with one “who holds legal title to real property that is subject to an enforcement action.” Id. (e.a.)
Chair Donald O’Brien, Jr.
March 22, 2019
Page 2

70.51, then showing how Atlee meets the criteria. S. 70.51 entitles an owner, including an owner of equitable interest in the Property, to a mediation and related special magistrate process where the owner timely claims one or more development orders are unreasonable or unfairly burden the owner’s property interest. This notice establishes that the County treated Atlee differently from all other PUD applicants, applying improper and inapplicable standards in doing so; the denial of the PUD and related site plan, and stated reasons, have the aggregate effect of barring any viable use of the Property.

4. Atlee applied for Beachwalk, a fifty-four (54) unit residential PUD subdivision on the 12.44-acre Property at the northeast corner of Highway A-1-A and Jungle Hut Road, in unincorporated Flagler County. The comprehensive plan designation controls the intensity and density of the Property. See, e.g., Lake Rosa v. Board of County Commissioners, 911 So. 2d 206 (Fla. 5th DCA 2005), and authority cited therein. (Chapter 163 requires each comprehensive plan to regulate population density and building intensity.) S. 70.51(6)(a).2 The Property’s comprehensive plan designation of MUL (Mixed Use Low Intensity, Low to Medium Density) allows up to 7 units per gross acre. Plan Policy A.1.1.3:(2)(a). The proposed PUD sought 4.5 units per gross acre, slightly over 60% of the plan’s intensity cap.

5. The Court in City of New Smyrna Beach v. Andover, 672 So. 2d 618, 620 (Fla. 5th DCA 1995), explained how PUDs operate as negotiated zoning tools:

It is important to emphasize the distinction between a PUD classification and the normal zoning districts. Unlike a normal construction project which is designed to fit within the fixed parameters (setbacks, maximum lot coverage, height limitations etc.) of a normal zoning classification, the PUD concept is flexible and permits the developer to present a plan covering a large tract ... which is unique and which meets the developer’s concept of the best use of the particular area. The developer may suggest high-rise buildings in order to permit greater open space. But in any event, the height of the buildings must be in harmony with the rest of the proposed development and the surrounding area. The plan submitted incorporates the developer’s recommendations as to what the setbacks, the percentage of

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2 As a note, subsection 3.04.02.E. of the County’s PUD ordinance states” [t]he density of the PUD shall comply with the Flagler County Comprehensive Land Use Plan and these regulations.” The operative term in chapter 163 is “intensity,” but the Plan itself at, in pertinent part, Policy A.1.1.3:(2)(a), and the regulations use the word “density.”
open space, the height of buildings, etc., should be, and once accepted by the governmental agency, these recommendations become fixed as the PUD is molded over and around the approved plan. The PUD classification, therefore, although flexible in concept, becomes rigid in application.

6. Atlee filed an application for PUD under s. 3.04 of the County Land Development Code (LDC). Staff and the Planning and Development Board made various comments and requests concerning the PUD, all as anticipated by Andover. Atlee agreed to numerous requests by, among others: (a) the Flagler County Attorney; (b) Flagler County Planning Staff; and (c) the Flagler County Planning and Development Board.

7. As a result of the various concessions, Atlee offered up the following in its PUD: 30 foot buffer along A-1-A, 10 foot buffer along Jungle Hut Road, and 5 foot buffer adjacent to the existing 30 foot buffer in public right-of-way on Hammock Dunes Parkway, none of which is required by code for single family projects; sidewalks that code does not require; amenities, which code does not require; 40% index tree preservation before any replantings; agreement to requests by the County Attorney to (i) donate $25,000 to the County to utilize as it wishes on the Jungle Hut Road corridor, together with (ii) agreeing to a sign of up to 6-feet high and 24-square feet, that would feature an image of the former Jungle Hut attraction on the Property; Water Star and Energy Star compliance; sidewalk, also not required by code; and, most significantly, 3,600 linear foot sewerage extension of the City of Palm Coast POTW system.3

8. The County Planning and Development Board held two hearings on the PUD and implementing site plan. The Board asked many questions, before recommending approval of the PUD, 5-2 at one hearing, continuing the PUD site plan to a second hearing to address tree index, pedestrian circulation, and similar site-specific matters. Atlee did so between the hearings. The board unanimously recommended site plan approval at the following meeting, with one of the two “no” votes the first time “moving approval” the second.

9. The BCC hearing, however, was another matter entirely. First, let’s examine the applicable law, including the County ordinances.

a. Board of County Commissioners v. Snyder, 627 So.2d 469, 476 (Fla. 1993), states the standard a rezoning applicant must meet:

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3 The replacement of septic systems, rampant in this county, including and especially on the barrier island, with public sewerage system is the local legislative delegation’s number one legislative priority. The BCC did not seem too impressed however, by Atlee’s agreement to do so.
[W]e hold that a landowner seeking to rezone property has the burden of proving that the proposal is consistent with the comprehensive plan and complies with all procedural requirements of the zoning ordinances. At this point, the burden shifts to the governmental board to demonstrate that maintaining the existing zoning classification with respect to the property accomplishes a legitimate public purpose.

b. The applicable criteria for the Snyder analysis are those in the pertinent zoning ordinance. *City of Naples v. Central Plaza*, 303 So. 2d 423, 425 (Fla. 2d DCA 1974). (“The only criteria upon which the Council could legally base its decision were those set forth in the ordinance.” (e.a.))

c. The Commissioners improperly focused on the Purpose and Intent language related to the County PUD ordinance in review of Atlee’s application, rather than the applicable criteria. No one questioned Atlee’s compliance with the County Plan or procedural requirements. In fact, the County’s planning director confirmed compliance with each. The *Snyder* burden shifted to show why denial was proper under the PUD criteria.

i. Subsection 3.04.02 of the LDC sets out the PUD “Reclassification [P]rocedure.” Subsection F. provides in pertinent part:

F. Action by the planning board and board of county commissioners. Pursuant to the requirements of subsection 3.05.05, the Flagler County Planning Board may recommend and the Flagler County Commission may enact an ordinance establishing a PUD, including any special conditions related thereto, based upon findings that:

1. The proposed PUD does not affect adversely the orderly development of

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4 [SIC] That subsection addresses community residential homes. It appears that the intended subsection is 2.02.05, which addresses the powers and duties of the Planning and Development Board.

5 The subsection expressly limits the findings necessary to those listed. No other findings or criteria should be considered. *Central Plaza, supra*. Let alone whether the ordinance’s repeated use of the word “may” violates the delegation of legislative authority standard. See, *ABC Liquors, Inc. v. City of Ocala*, 366 So. 2d 146, 149 ( Fla. 1st DCA 1979). Three more listed findings follow. None is relevant.
Flagler County and complies with the comprehensive plan adopted by the Flagler County Board of County Commissioners.\(^6\)

2. The proposed PUD will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood.\(^7\)

ii. Purpose and intent language in a zoning code generally “contains only a statement of general goals and purposes, and provides no criteria.” *Dinsmore Dev. Co. v. Cherokee County*, 398 S.E. 2d 539 (Ga. 1990). Zoning code criteria are limited to those that a reasonable person reading the code would be on notice are actual code criteria. *Id.* Particularly where the purpose and intent language (A) is not incorporated in applicable criteria; or (B) is unconstitutionally vague. *FSL Corp. v. Harrington*, 425 S.E. 2d 276 (Ga. 1993). This purpose and intent ordinance fails on both prongs.

iii. The Purpose and Intent subsection applicable to PUDs states:

A. **Purpose and Intent.** The purpose and intent of the planned unit development (PUD) is to provide an opportunity for innovative urban design techniques, improved use of land, protection of valuable natural features in the community, desirable land use mix, open space, and more economical public services. The purpose of this provision is to encourage the unified development of large tracts of land using more creative

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\(^6\) The first prong of subsection I is a recitation of police power review. The second prong, consistency with the Plan, is a requirement of Snyder and *ABG*.

\(^7\) “Health and Safety” is a police power goal, not a criterion. *See, e.g., Battaglia v. FLAWAC*, 629 So. 2d 161, 164 (Fla. 5th DCA 1994) (“All incidents of property ownership are protected from infringement by the state unless the regulations are reasonably necessary to secure the health, safety, and welfare of the public.”). *See, also, City of Homestead v. Schild*, 227 So. 2d 540, 542 (Fla. 3d DCA 1969) (holding the language “as it deems necessary and essential to preserve and protect the health, safety, and welfare of the citizens,” was unconstitutionally vague). The remainder of the subsection addresses compatibility typical in a zoning code. See the authority cited in subsection V, below.
and flexible concepts in site planning than would otherwise be possible through the strict application of minimum and maximum requirements of conventional land use districts established in this article. The proposed PUD must be in harmony with the general purpose of this article and the county’s comprehensive plan. The design and construction of a PUD project shall follow a carefully devised plan of development which must be prepared in accordance with the requirements, procedures, and approvals herein prescribed.

iv. The very next subsection proves that the County should not weigh the Purpose and Intent paragraph. Subparagraph 3.03.20.B. states in pertinent part:

B. Permitted principal uses and structures.
   In the PUD, planned unit development, no premises shall be used except for the following uses and their customary accessory uses or structures, after compliance with the requirements of section 3.04.00 of this article.

(emphasis added)

That subsection expressly recites another section, while it does not cite the immediately preceding subsection A.

v. Atlee concedes that Cap’s on the Water v. St. Johns County, 841 So. 2d 507 (Fla. 5th DCA 2003), read other, related, code language together with the express criteria for the zoning authorization at issue there. The Court held that the code’s definition of “special use permit” was implicitly incorporated by reference in the code’s “special use permit” criteria. That implied incorporation, however, made logical sense. The definition helped to explain what a special use permit was and what one needed to meet to get one.

vi. The purpose and intent language of s. 3.03.20 contrasts starkly with the incorporated definition of “special use permit” in Cap’s. Neither section 3.03, where that language exists, nor subsection 3.04.02, concerning the PUD
“[r]eclassification procedure,” incorporates or applies the purpose and intent language in the applicable criteria. Quite the contrary:

A. Subsection 3.03.20.A., listing “[p]urpose and intent,” recites generalized goals, nowhere purporting any is a “criterion,” or applicable to section 3.04.00.

B. Subsection 3.03.20.B. expressly lists the allowable uses in a PUD “after compliance with section 3.04.00 of this article.” Notably absent in reference to compliance to subsection A, immediately above.⁸

C. Aside from the problematic, repeated use of the word “may,” subsection 3.04.02.F. contains an exclusive list of findings necessary to approve a PUD. Nowhere does the list mention or imply that the generalized goals of 3.03.20 apply. Friends of the Great Southern, Inc. v. City of Hollywood, 964 So. 2d 827 (Fla 4th DCA 2007), demonstrates that the PUD ordinance must be limited to its discreet listed criteria to be constitutional.

10. The misapplication of inapplicable, and even applicable standards shows the problems here:

a. First, on information and belief, the County Commission never has cited the Purpose and Intent language of s. 3.03.20.A. as any putative criteria for a PUD before Atlee’s project. Let alone, the purported need to be “creative” or “innovative.” They did so, out of whole cloth, for the first time for Atlee’s application. This is particularly noteworthy, because 3.03.20 dates back over two decades, and 3.04.0, almost as long.

b. Second, even if 3.03.20.A. applied, the words “creative” and “innovative” are classic examples of standardless terms that violate constitutional bars against vague terms by which local government unlawfully delegates legislative power to allow itself to make

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⁸ Section 3.03.17., regulating the “[g]eneral commercial and shopping center district,” stands in sharp contrast. Subsection A. there contains clear criteria, saying such districts “should be located along major arterial streets” and “located around the interchange of I-95 and Palm Coast Parkway, I-95 and SR 100, I-95 and US-1, along arterial roads and other suitable areas when consistent with the ... Plan.” The PUD purpose and intent language nowhere contains anything save generalized goals.
arbitrary and capricious decisions as to what constitute “creative” or “innovative” projects. The Court in *ABC Liquors v. City of Ocala*, 366 So. 2d 146, 149 (Fla. 1st DCA 1979), warned:

> An applicant for approval of a location must be in a position to determine the requirements and must be afforded an opportunity to comply with them. The requirements must be of uniform application. Once the requirements are met the governing body may not refuse the application. Any standards, criteria, or requirements which are subject to whimsical or capricious application or unbridled discretion will not meet the test of constitutionality.

(e.a.)

c. Nonetheless, the discussion at BCC was rife with allegations of the project’s failure to meet these inapplicable, standardless, ad hoc terms.

d. The principal reason given for the board’s disdain was two-fold. First, the project wasn’t “creative.” Second, its lots were too small and numerous. We already explained that “creativity” is not a factor. As for the lot size, with all due respect, the record reflects over 1,300 similarly sized lots in the surrounding area, including directly across the street.

e. Several other grounds, cited by BCC members, exist to establish that the decision was “unreasonable” as contemplated by s. 70.51.

i. Failure of the project to buffer the commercial project to the north, notwithstanding that a neighboring commercial project must buffer from residential under the code. The unilateral code burden was arbitrarily reversed.

ii. Failure to interconnect with the neighboring commercial project, notwithstanding that the code does not require residential to interconnect with commercial.

iii. Responding to the engineer of record’s unrebutted statement that the project will meet regulatory standards of ensuring post-development drainage, by simply proclaiming “I don’t believe you.” That is a *per se* arbitrary quasi-judicial response of the kind barred by *ABC Liquors, supra*, and *City of Apopka v. Orange County*, 299 So. 2d 657 (Fla. 4th DCA 1974).
iv. Demanding a 12.44-acre development have “clubhouse” or “common pool,” which are simply unreasonable amenities to expect of a development of such size and scale.

11. Additionally, various Commissioners upbraided the project for alleged failure to provide a final product. Particularly offensive to the BCC was the willingness to offer up and respond to any proposed BCC changes, as is integral to PUDs anywhere (see Andover, supra), let alone to the County PUD process. On information and belief, the County has a common process and policy of negotiating out PUD terms at hearings, on the floor. Certainly, the Planning Board did so below. Here, however, seemingly without precedent, the County Commission determined such standard PUD negotiations were somehow improper, disparaged Atlee for trying, shut down discussion, and denied.

12. Where else would an applicant expect to hear the BCC’s input? After all, the BCC reported no ex parte communications, but for receipt of emails. One must logically assume that no BCC member therefore spoke with any interested party, thus making the public hearing the only place for PUD give and take to occur. Only, it didn’t. Unlike virtually every other PUD, ever, before the BCC, this one was just shut down.

13. Subsection (3) of the statute requires a showing that the development order is “unreasonable or unfairly burdens the use of the owner’s real property.” Subsection (18) recites a nonexclusive list of factors to be used in determining whether either standard is met. Nonetheless, the statute does not define either term. It’s worth noting that the nonexclusive factors that s. 70.51(18) lists in determining whether a development order is unreasonable or poses an unfair burden on a property were issued in the Report of the Governor’s Property Rights Study Commission II, Fla. Exec. Order 93-150 (June 4, 1993). That Report tracked the factors used by the Federal Eleventh Circuit Court of Appeals in the inverse condemnation decision in Reahard v. Lee County, 968 F.2d 1131, 1136 (11th Cir. 1992).

14. Atlee is prepared to provide a pro forma and related materials at the s. 70.51 proceeding to demonstrate that no development of the Property is viable without some PUD related modifications in a manner similar to Atlee’s application. In sum, the relatively small overall size if the Property, together with universal, largely fixed, costs of development, and mitigation, require significant modifications. Including development at a scale that is commiserate with the vast number of surrounding and nearby lots.

15. Atlee files this request now in an abundance of caution. The written Development Orders have not been issued, so Atlee cannot attach them consistent with s. 70.51(6)(b). Atlee will supplement with them on receipt. Atlee also notes that at least one prior motion to dismiss a s. 70.51 demand for failure to attach an order that had not yet been issued was apparently found to be “frivolous.” M. Bentley, Understanding the Florida Land Use and Environmental Dispute Resolution Act, 37 STETSON L. R. 381, 400.
I remain,

Respectfully,

Sidney F. Ansbacher

SFA/cs

CERTIFICATE OF SERVICE

Consistent with s. 70.51(4) and (6)(d), F.S., the foregoing is filed with the elected or appointed head of the governmental entity that issued the development order or orders, within 30 days of issuance of the Development Orders. A courtesy copy is provided as well to the board counsel, Albert J. Hadeed, Esq.
EXHIBIT "A"
Legal Description

PARCEL 1

The South 200 feet, when measured at right angles to South line thereof, of that part of Section 40, Township 10 South of Range 31 East, lying East of the right of way of the Ocean Shore Boulevard now designated as State Road A1A, containing 3.25 acres, more or less.

PARCEL 2

Being a part of Section 40, Township 10 South, Range 31 East, and more particularly described as follows: Beginning at the Southeast corner of the said Section 40, as a point of reference and running thence North 19°57'45" West, along the Easterly boundary of the said Section 40, a distance of 211.71 feet, to the point of beginning of this description, thence South 89°11' West, and parallel with the South boundary of the said Section 40, a distance of 1049.54 feet, to an intersection with the Easterly boundary of the 50 foot right of way of State Road No. A1A; thence North 16°17'27" West, along said Easterly right of way boundary, a distance of 362.74 feet; thence North 89°11' East, a distance of 1024.95 feet, to an intersection with the Easterly boundary of the said Section 40; thence South 19°57'45" East, a distance of 370.06 feet, to the point of beginning of this description. Said parcel contains 8.32 acres, more or less, and bearings are referred to the True Meridian.

Less and except from the foregoing any portion of the above described property lying within the road rights-of-way of State Road A1A and Hammock Dunes Parkway, as reflected on survey by American Surveying & Mapping, Job No. ASM49885, dated August 9, 2005, as revised.
UPCHURCH, BAILEY AND UPCHURCH, P.A.

SIDNEY F. ANSBACHER
JOHN D. BAILEY, JR.
ALLYSON BOYLES CURRIE
STEPHEN A. FAUSTINI
KATHERINE GAERTNER JONES
MICHAEL A. SIRAGUSA
FRANK D. UPCHURCH III
DONALD W. WALLIS

780 North Ponce de Leon Boulevard
St. Augustine, Florida 32084
www.ubulaw.com

Telephone (904) 829-9066
Facsimile (904) 825-4852

Please reply to:
Post Office Drawer 3007
St. Augustine, Florida 32085-3007

ATTORNEYS AT LAW
Established 1925

FRANK D. UPCHURCH, SR.
(1894-1986)

HAMILTON D. UPCHURCH
(1925-2008)

FRANK D. UPCHURCH, JR.
(1922-2012)

April 24, 2019

VIA EMAIL DELIVERY
dobrien@flaglercounty.org

Chair Donald O'Brien, Jr.
Flagler County Commission
1769 E. Moody Boulevard
Building 2
Bunnell, Florida 32110

Re: Supplement to Statutory demand for assignment of, and referral to, Special Magistrate on behalf of Atlee Development Group, pursuant to s. 70.51, F.S.

Dear Chair O'Brien:

I follow up on several discussions with County Attorney Al Hadeed. I submit this letter solely to ensure technical statutory compliance; there is no additional substantive allegation relevant to the pending proceeding. I revise, and supplement the s. 70.51 demand originally submitted on March 23, 2019, to incorporate the Development Order as executed and entered by the County Commission of Flagler County, Florida. This is done to ensure technical compliance with s. 70.51(6)(b), F.S., as anticipated in Paragraph 15 of our original demand.

I note the original motion to deny did not include any findings. See Board v. Snyder, 607 So.2d 469, 476 (Fla. 1993) (findings are not required, although competent substantial evidence must exist); but see, e.g., Bueno v. Workman, 20 So. 3d 993, 998 (Fla. 4th DCA 2009) (tipsy coachman rule inapposite where no findings made).

I acknowledge that the County provided advance copies of the draft order, so we stand on our allegations, except to include the order.¹

I remain,

Respectfully,

Sidney F. Ansbacher

¹ I note that the order purports to put the rezoning burden of Land Development Code compliance on the applicant, which reverses the Florida Supreme Court Snyder burden. We will not object here, because that is a judicial review standard that no administrative order can alter.
Chair Donald O’Brien, Jr.
April 24, 2019
Page 2

SFA/cs
Enclosure

cc: Client
    Albert J. Hadeed, Esq.
March 22, 2019

VIA EMAIL DELIVERY
dobrien@flaglercounty.org

Chair Donald O’Brien, Jr.
Flagler County Commission
1769 E. Moody Boulevard
Building 2
Bunnell, Florida 32110

Re: Statutory demand for assignment of, and referral to, Special Magistrate on behalf of Atlee Development Group, pursuant to s. 70.51, F.S.*

Dear Chair O’Brien:

I write on behalf of the Atlee Development Group to demand mandatory assignment of, and referral to, a special magistrate pursuant to s.70.51, F.S., on the Flagler County Commission’s denial of the Beachwalk Planned Unit Development (PUD) rezoning application and implementing site plan, on March 18, 2019 (the Development Orders). Consistent with that statute, I state:

1. Atlee holds an equitable interest in the property legally described in the attached Exhibit “A” (the Property). Atlee is the contract purchaser of the Property. Florida law holds that the contract purchaser holds an equitable interest in the subject real estate. See, e.g., Waldorff Insurance & Bonding. Inv. v. Egin Nail Bank, 453 So. 2d 1383, 1385 (Fla. 1st DCA 1984). Atlee therefore has standing to bring this action pursuant to s. 70.51(2)(d), F.S. 1

2. Pursuant to s. 70.51(3), Atlee contends the following shows the Development Orders meet the definition of “[d]evelopment order” under s. 70.51(2)(b). As issued by Flagler County, by and through its Board of County Commissioners, they are “unreasonable or unfairly burden[ ] the use of the owner’s real property . . . .”

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area. The plan submitted incorporates the developer's
recommendations as to what the setbacks, the percentage of

2 As a note, subsection 3.04.02.E. of the County's PUD ordinance states "[t]he density of the PUD shall
comply with the Flagler County Comprehensive Land Use Plan and these regulations." The operative term
in chapter 163 is "intensity," but the Plan itself at, in pertinent part, Policy A.1.1.3:(2)(a), and the
regulations use the word "density."
open space, the height of buildings, etc., should be, and once accepted by the governmental agency, these recommendations become fixed as the PUD is molded over and around the approved plan. The PUD classification, therefore, although flexible in concept, becomes rigid in application.

6. Atlee filed an application for PUD under s. 3.04 of the County Land Development Code (LDC). Staff and the Planning and Development Board made various comments and requests concerning the PUD, all as anticipated by Andover. Atlee agreed to numerous requests by, among others: (a) the Flagler County Attorney; (b) Flagler County Planning Staff; and (c) the Flagler County Planning and Development Board.

7. As a result of the various concessions, Atlee offered up the following in its PUD: 30 foot buffer along A-1-A, 10 foot buffer along Jungle Hut Road, and 5 foot buffer adjacent to the existing 30 foot buffer in public right-of-way on Hammock Dunes Parkway, none of which is required by code for single family projects; sidewalks that code does not require; amenities, which code does not require; 40% index tree preservation before any replantings; agreement to requests by the County Attorney to (i) donate $25,000 to the County to utilize as it wishes on the Jungle Hut Road corridor, together with (ii) agreeing to a sign of up to 6-feet high and 24-square feet, that would feature an image of the former Jungle Hut attraction on the Property; Water Star and Energy Star compliance; sidewalk, also not required by code; and, most significantly, 3,600 linear foot sewerage extension of the City of Palm Coast POTW system.3

8. The County Planning and Development Board held two hearings on the PUD and implementing site plan. The Board asked many questions, before recommending approval of the PUD, 5-2 at one hearing, continuing the PUD site plan to a second hearing to address tree index, pedestrian circulation, and similar site-specific matters. Atlee did so between the hearings. The board unanimously recommended site plan approval at the following meeting, with one of the two “no” votes the first time “moving approval” the second.

9. The BCC hearing, however, was another matter entirely. First, let’s examine the applicable law, including the County ordinances.

a. Board of County Commissioners v. Snyder, 627 So.2d 469, 476 (Fla. 1993), states the standard a rezoning applicant must meet:

3 The replacement of septic systems, rampant in this county, including and especially on the barrier island, with public sewerage system is the local legislative delegation’s number one legislative priority. The BCC did not seem too impressed however, by Atlee’s agreement to do so.
[We] hold that a landowner seeking to rezone property has the burden of proving that the proposal is consistent with the comprehensive plan and complies with all procedural requirements of the zoning ordinances. At this point, the burden shifts to the governmental board to demonstrate that maintaining the existing zoning classification with respect to the property accomplishes a legitimate public purpose.

b. The applicable criteria for the Snyder analysis are those in the pertinent zoning ordinance. City of Naples v. Central Plaza, 303 So. 2d 423, 425 (Fla. 2d DCA 1974). (“The only criteria upon which the Council could legally base its decision were those set forth in the ordinance.” (e.a.))

c. The Commissioners improperly focused on the Purpose and Intent language related to the County PUD ordinance in review of Atlee’s application, rather than the applicable criteria. No one questioned Atlee’s compliance with the County Plan or procedural requirements. In fact, the County’s planning director confirmed compliance with each. The Snyder burden shifted to show why denial was proper under the PUD criteria.

i. Subsection 3.04.02 of the LDC sets out the PUD “Reclassification [P]rocedure.” Subsection F. provides in pertinent part:

F. Action by the planning board and board of county commissioners. Pursuant to the requirements of subsection 3.05.05, the Flagler County Planning Board may recommend and the Flagler County Commission may enact an ordinance establishing a PUD, including any special conditions related thereto, based upon findings that:

1. The proposed PUD does not affect adversely the orderly development of

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4 [SIC] That subsection addresses community residential homes. It appears that the intended subsection is 2.02.05, which addresses the powers and duties of the Planning and Development Board.

5 The subsection expressly limits the findings necessary to those listed. No other findings or criteria should be considered. Central Plaza, supra. Let alone whether the ordinance’s repeated use of the word “may” violates the delegation of legislative authority standard. See, ABC Liquors, Inc. v. City of Ocala, 366 So. 2d 146, 149 (Fla. 1st DCA 1979). Three more listed findings follow. None is relevant.
Flagler County and complies with the comprehensive plan adopted by the Flagler County Board of County Commissioners.  

2. The proposed PUD will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood.

ii. Purpose and intent language in a zoning code generally "contains only a statement of general goals and purposes, and provides no criteria." Dinsmore Dev. Co. v. Cherokee County, 398 S.E. 2d 539 (Ga. 1990). Zoning code criteria are limited to those that a reasonable person reading the code would be on notice are actual code criteria. Id. Particularly where the purpose and intent language (A) is not incorporated in applicable criteria; or (B) is unconstitutionally vague. FSL Corp. v. Harrington, 425 S.E. 2d 276 (Ga. 1993). This purpose and intent ordinance fails on both prongs.

iii. The Purpose and Intent subsection applicable to PUDs states:

A. Purpose and Intent. The purpose and intent of the planned unit development (PUD) is to provide an opportunity for innovative urban design techniques, improved use of land, protection of valuable natural features in the community, desirable land use mix, open space, and more economical public services. The purpose of this provision is to encourage the unified development of large tracts of land using more creative

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6 The first prong of subsection 1 is a recitation of police power review. The second prong, consistency with the Plan, is a requirement of Snyder and ABG.

7 "Health and Safety" is a police power goal, not a criterion. See, e.g., Battaglia v. FLAWAC, 629 So. 2d 161, 164 (Fla. 5th DCA 1994) ("All incidents of property ownership are protected from infringement by the state unless the regulations are reasonably necessary to secure the health, safety, and welfare of the public."). See, also, City of Homestead v. Schild, 227 So. 2d 540, 542 (Fla. 3d DCA 1969) (holding the language "as it deems necessary and essential to preserve and protect the health, safety, and welfare of the citizens," was unconstitutionally vague). The remainder of the subsection addresses compatibility typical in a zoning code. See the authority cited in subsection v, below.
and flexible concepts in site planning than would otherwise be possible through
the strict application of minimum and maximum requirements of conventional
land use districts established in this article. The proposed PUD must be in
harmony with the general purpose of this article and the county’s comprehensive
plan. The design and construction of a
PUD project shall follow a carefully
designed plan of development which must
be prepared in accordance with the
requirements, procedures, and approvals
herein prescribed.

iv. The very next subsection proves that the County should not
weigh the Purpose and Intent paragraph. Subparagraph
3.03.20.B. states in pertinent part:

B. Permitted principal uses and structures.
In the PUD, planned unit development,
no premises shall be used except for the
following uses and their customary
accessory uses or structures, after
compliance with the requirements of
section 3.04.00 of this article.

(emphasis added)

That subsection expressly recites another section, while it
does not cite the immediately preceding subsection A.

v. Atlee concedes that Cap’s on the Water v. St. Johns County,
841 So. 2d 507 (Fla. 5th DCA 2003), read other, related,
rule language together with the express criteria for the
zoning authorization at issue there. The Court held that the
code’s definition of “special use permit” was implicitly
incorporated by reference in the code’s “special use permit”
criteria. That implied incorporation, however, made logical
sense. The definition helped to explain what a special use
permit was and what one needed to meet to get one.

vi. The purpose and intent language of s. 3.03.20 contrasts
starkly with the incorporated definition of “special use
permit” in Cap’s. Neither section 3.03, where that language
exists, nor subsection 3.04.02, concerning the PUD
“[r]eclassification procedure,” incorporates or applies the purpose and intent language in the applicable criteria. Quite the contrary:

A. Subsection 3.03.20.A., listing “[p]urpose and intent,” recites generalized goals, nowhere purporting any is a “criterion,” or applicable to section 3.04.00.

B. Subsection 3.03.20.B. expressly lists the allowable uses in a PUD “after compliance with section 3.04.00 of this article.” Notably absent in reference to compliance to subsection A, immediately above.\(^5\)

C. Aside from the problematic, repeated use of the word “may,” subsection 3.04.02.F. contains an exclusive list of findings necessary to approve a PUD. Nowhere does the list mention or imply that the generalized goals of 3.03.20 apply. Friends of the Great Southern, Inc. v. City of Hollywood, 964 So. 2d 827 (Fla 4th DCA 2007), demonstrates that the PUD ordinance must be limited to its discreet listed criteria to be constitutional.

10. The misapplication of inapplicable, and even applicable standards shows the problems here:

a. First, on information and belief, the County Commission never has cited the Purpose and Intent language of s. 3.03.20.A. as any putative criteria for a PUD before Atlee’s project. Let alone, the purported need to be “creative” or “innovative.” They did so, out of whole cloth, for the first time for Atlee’s application. This is particularly noteworthy, because 3.03.20 dates back over two decades, and 3.04.0, almost as long.

b. Second, even if 3.03.20.A. applied, the words “creative” and “innovative” are classic examples of standardless terms that violate constitutional bars against vague terms by which local government unlawfully delegates legislative power to allow itself to make

\(^5\) Section 3.03.17., regulating the “[g]eneral commercial and shopping center district,” stands in sharp contrast. Subsection A. there contains clear criteria, saying such districts “should be located along major arterial streets” and “located around the interchange of I-95 and Palm Coast Parkway, I-95 and SR 100, I-95 and US-1, along arterial roads and other suitable areas when consistent with the ... Plan.” The PUD purpose and intent language nowhere contains anything save generalized goals.
arbitrary and capricious decisions as to what constitute “creative” or “innovative” projects. The Court in *ABC Liquors v. City of Ocala*, 366 So. 2d 146, 149 (Fla. 1st DCA 1979), warned:

An applicant for approval of a location must be in a position to determine the requirements and must be afforded an opportunity to comply with them. *The requirements must be of uniform application.* Once the requirements are met the governing body may not refuse the application. Any standards, criteria, or requirements which are subject to whimsical or capricious application or unbridled discretion will not meet the test of constitutionality.

(e.a.)

c. Nonetheless, the discussion at BCC was rife with allegations of the project’s failure to meet these inapplicable, standardless, ad hoc terms.

d. The principal reason given for the board’s disdain was two-fold. First, the project wasn’t “creative.” Second, its lots were too small and numerous. We already explained that “creativity” is *not* a factor. As for the lot size, with all due respect, the record reflects over 1,300 similarly sized lots in the surrounding area, including directly across the street.

e. Several other grounds, cited by BCC members, exist to establish that the decision was “unreasonable” as contemplated by s. 70.51.

i. Failure of the project to buffer the commercial project to the north, notwithstanding that a neighboring commercial project must buffer from residential under the code. The unilateral code burden was arbitrarily reversed.

ii. Failure to interconnect with the neighboring commercial project, notwithstanding that the code does not require residential to interconnect with commercial.

iii. Responding to the engineer of record’s *unrebutted* statement that the project will meet regulatory standards of ensuring post-development drainage, by simply proclaiming “I don’t believe you.” That is a *per se* arbitrary quasi-judicial response of the kind barred by *ABC Liquors, supra*, and *City of Apopka v. Orange County*, 299 So. 2d 657 (Fla. 4th DCA 1974).
iv. Demanding a 12.44-acre development have “clubhouse” or “common pool,” which are simply unreasonable amenities to expect of a development of such size and scale.

11. Additionally, various Commissioners upbraided the project for alleged failure to provide a final product. Particularly offensive to the BCC was the willingness to offer up and respond to any proposed BCC changes, as is integral to PUDs anywhere (see Andover, supra), let alone to the County PUD process. On information and belief, the County has a common process and policy of negotiating out PUD terms at hearings, on the floor. Certainly, the Planning Board did so below. Here, however, seemingly without precedent, the County Commission determined such standard PUD negotiations were somehow improper, disparaged Atlee for trying, shut down discussion, and denied.

12. Where else would an applicant expect to hear the BCC’s input? After all, the BCC reported no ex parte communications, but for receipt of emails. One must logically assume that no BCC member therefore spoke with any interested party, thus making the public hearing the only place for PUD give and take to occur. Only, it didn’t. Unlike virtually every other PUD, ever, before the BCC, this one was just shut down.

13. Subsection (3) of the statute requires a showing that the development order is “unreasonable or unfairly burdens the use of the owner’s real property.” Subsection (18) recites a nonexclusive list of factors to be used in determining whether either standard is met. Nonetheless, the statute does not define either term. It’s worth noting that the nonexclusive factors that s. 70.51(18) lists in determining whether a development order is unreasonable or poses an unfair burden on a property were issued in the Report of the Governor’s Property Rights Study Commission II, Fla. Exec. Order 93-150 (June 4, 1993). That Report tracked the factors used by the Federal Eleventh Circuit Court of Appeals in the inverse condemnation decision in Reahard v. Lee County, 968 F.2d 1131, 1136 (11th Cir. 1992).

14. Atlee is prepared to provide a pro forma and related materials at the s. 70.51 proceeding to demonstrate that no development of the Property is viable without some PUD related modifications in a manner similar to Atlee’s application. In sum, the relatively small overall size if the Property, together with universal, largely fixed, costs of development, and mitigation, require significant modifications. Including development at a scale that is commiserate with the vast number of surrounding and nearby lots.

15. Atlee files this request now in an abundance of caution. The written Development Orders have not been issued, so Atlee cannot attach them consistent with s. 70.51(6)(b). Atlee will supplement with them on receipt. Atlee also notes that at least one prior motion to dismiss a s. 70.51 demand for failure to attach an order that had not yet been issued was apparently found to be “frivolous.” M. Bentley, Understanding the Florida Land Use and Environmental Dispute Resolution Act, 37 STETSON L. R. 381, 400.
I remain,

Respectfully,

Sidney F. Ansbacher

SFA/cs

CERTIFICATE OF SERVICE

Consistent with s. 70.51(4) and (6)(d), F.S., the foregoing is filed with the elected or appointed head of the governmental entity that issued the development order or orders, within 30 days of issuance of the Development Orders. A courtesy copy is provided as well to the board counsel, Albert J. Hadeed, Esq.
EXHIBIT “A”
Legal Description

PARCEL 1

The South 200 feet, when measured at right angles to South line thereof, of that part of Section 40, Township 10 South of Range 31 East, lying East of the right of way of the Ocean Shore Boulevard now designated as State Road A1A, containing 3.25 acres, more or less.

PARCEL 2

Being a part of Section 40, Township 10 South, Range 31 East, and more particularly described as follows: Beginning at the Southeast corner of the said Section 40, as a point of reference and running thence North 19°57’45” West, along the Easterly boundary of the said Section 40, a distance of 211.71 feet, to the point of beginning of this description; thence South 89°11’ West, and parallel with the South boundary of the said Section 40, a distance of 1049.54 feet, to an intersection with the Easterly boundary of the 50 foot right of way of State Road No. A1A; thence North 16°17’27” West, along said Easterly right of way boundary, a distance of 362.74 feet; thence North 89°11’ East, a distance of 1024.95 feet, to an intersection with the Easterly boundary of the said Section 40; thence South 19°57’45” East, a distance of 370.06 feet, to the point of beginning of this description. Said parcel contains 8.32 acres, more or less, and bearings are referred to the True Meridian.

Less and except from the foregoing any portion of the above described property lying within the road rights of way of State Road A1A and Hammock Dunes Parkway, as reflected on survey by American Surveying & Mapping, Job No. ASM49888, dated August 9, 2005, as revised.
In August 2018, Atlee Development Group, Inc. (Atlee) applied for a rezoning of Parcel # 40-10-31-5137-000H0-0000 from Residential Commercial (R/C) to Planned Unit Development (PUD) on behalf of the property owner LRA Rio, LLC. The Flagler County Technical Review Committee (TRC) reviewed the application at its regular meeting on September 19, 2018. The TRC identified a number of issues to be addressed before the application could be forwarded to the Flagler County Planning and Development Board. The TRC followed up on its issue identification, reviewing the application at its regular meeting on October 17, 2018, at which it provided additional comments in response to Atlee’s latest submittal. The TRC again reviewed the application at its regular meeting on November 21, 2018, and yet again provided comments for Atlee to address.

The Planning and Development Board considered Atlee’s application at its regular meeting on January 8, 2019. The Assistant County Attorney, who also provides counsel to the TRC, sent a memorandum to the Planning and Development Board stating that outstanding issues from TRC review remained and that the application was not ready to be heard and should be postponed. As a result, the Planning and Development Board continued the item to its next meeting by a majority vote. In the interim, the applicant resubmitted its rezoning proposal to the Planning and Zoning Director with minor modifications. However, the resubmittal was not reviewed by the TRC.

The Flagler County Planning and Development Board heard the rezoning application again on February 12, 2019. By majority vote, the Planning and Development Board voted to recommend the Board of County Commissioners (hereafter “Commission”) approve the rezoning. The application came to the Commission for review at its regular meeting on March 18, 2019, in a quasi-judicial hearing pursuant to Section 3.07.05.D of the Land Development Code (“LDC”).

Prior to the commencement of the hearing, Commissioners disclosed their ex parte communications on the record. The applicant Atlee bore the burden of demonstrating that the proposed rezoning complied with all applicable provisions of the Flagler County Comprehensive Plan, the Scenic A1A Overlay District and Corridor Management Plan, and the LDC.
Prior to the hearing, the Commission had been furnished with the following record as part of the agenda package: the Staff Agenda Memo #9a dated March 18, 2019; the Planning Director’s Technical Staff Report regarding Application #3150; Atlee’s Application for Rezoning #3150 dated August 2, 2018; the TRC’s comments for its September, October, and November 2018 meetings; Atlee’s response to the October 2018 TRC comments; an excerpt from the County’s 2019 Legislative Priorities; correspondence from the Scenic A1A Pride Committee; the Assistant County Attorney’s memorandum to the Planning and Development Board dated January 8, 2019; the Assistant County Attorney’s letter to Mr. Ansbacher dated February 8, 2019; written public comments from Hammock resident Dennis Clark, the Dunes Community Development District, and an anonymous individual; and notice of the Commission’s quasi-judicial hearing provided to landowners within 300 feet of the subject parcel, as well as a newspaper advertisement. In addition, immediately prior to the Commission meeting, the Planning Director furnished to the Commission a tree survey submitted by Atlee and the minutes of the Planning and Development Board from its February 2019 meeting. All of these items were filed with the Clerk of the Court as the official record keeper of the Commission.

The Commission then heard from the Planning Director who presented the rezoning application and answered inquiries of the Commission. The Commission next heard from Atlee’s counsel, Mr. Ansbacher, who provided further details and answered questions of the Commission. The Commission then heard from thirteen individuals from the public before, finally, hearing a rebuttal from Mr. Ansbacher.

**Findings and Legal Conclusions**

On March 18, 2019, after fully considering the application, the written record and the testimony, and after Commission discussion of issues related to buffers, amenities, drainage, landscaping, lot size and setbacks, and matters related to compatibility with the surrounding areas, the Commission by unanimous vote found, determined, and concluded that the requested rezoning from R/C to PUD is not consistent with the Flagler County LDC, the Comprehensive Plan, and the Scenic A1A Corridor Management Plan and is not compatible with surrounding areas. This determination includes but is not limited to the following:

- The proposed subdivision is contiguous to State Road A1A and Jungle Hut Road, both part of a National Scenic Byway subject to a land development overlay district and a Corridor Management Plan, with Jungle Hut Road being one of three public gateways to the beach along the byway. In order to have the roads designated as a National Scenic Byway, the County had to develop and support a master plan for the corridors that addressed the intrinsic resources of the corridors. Objective A.2.3 of the Flagler County Comprehensive Plan requires the County to ensure development along the byway is consistent with the Corridor Management Plan. In addition, as referenced in the backup materials, the Florida Land and Water Adjudicatory Commission (FLWAC) found the applicability of the Corridor Management Plan as part of Comprehensive Plan analysis of land development proposals along the National Scenic Byway, and that its application specifically requires context sensitive design among other planning considerations. See Ginn-LA Marina LLP et al v. Flagler County, Final Order, Case No. APP-10-007, at
pages 8 - 10, and 16, affirming the Recommended Order, DOAH Case No. 10-9137DRI (April 6, 2011) at pages 25 – 27, 35 – 36.

- The Corridor Management Plan requires context sensitive design for development occurring within the corridor, meaning that whatever is built around the corridor should fit in or blend with the location where it is proposed. The applicant failed to demonstrate compliance with the Corridor Management Plan.
- Contrary to the requirements of the Corridor Management Plan, the proposed perimeter vegetative buffers on the two National Scenic Byways (State Road A1A and Jungle Hut Road) are insufficient in width, and the proposed subdivision is incongruous with the byways.
- The proposed subdivision, with a “racetrack” layout and minimal open space, does not fulfill the purpose of PUD zoning, as delineated in LDC Section 3.03.20.A, to provide for creative, innovative and flexible concepts which a strict application of the R/C zoning would not allow, such as innovative design techniques, improved use of land and protection of valuable natural features.
- The proposed subdivision would adversely affect the orderly development of the County.
- The lots of the proposed subdivision are smaller than allowed under R/C zoning.
- The proposed 1,800 square foot minimum house size on 3,500 square foot lots would not leave sufficient open space or room for the required 40% index tree preservation and would result in insufficient setbacks between homes.
- The amenities are insufficient in size and quality.
- The proposed subdivision lacks a secondary emergency access required by LDC Section 4.06.02.M.

**Appeal and Dispute Resolution**

On March 18, 2019, after the Commission’s vote to deny the application for rezoning, the applicant invoked its right to seek relief through the assignment of a special magistrate pursuant to Section 70.51, Florida Statutes. As final action of the Commission on this matter, the applicant may petition the Circuit Court for writ of certiorari within thirty days of approval of this Adjudicatory Order pursuant to LDC Section 3.07.05.E. or within thirty days after the conclusion of proceedings stayed by the invocation of the alternative dispute resolution under the Ch. 70, Florida Statutes.

APPROVED, this 15th day of April 2019.

[Signature]
Donald T. O’Brien Jr., Chairman of the Flagler County Board of County Commissioners

Attest: Tom Bexley, Clerk of the Circuit Court and Comptroller

Approved as to form: Kate Stangle, Special Counsel to Flagler County

Copy provided to Sidney Ansbacher, Attorney for Atlee.
June 8, 2019

Albert J. Hadeed  
Flagler County Legal Dept.  
1769 E. Moody Blvd, Bldg 2  
Bunnell, FL 32110

Re: Beachwalk PUD Rezoning and Preliminary Site Plan Review  
Projects 2018080036 and 2018100011

Dear Mr. Hadeed,

Scenic A1A PRIDE held a special meeting on June 5, 2019 as a follow-up review of the proposed Beachwalk PUD following the May 23 mediation. Mr. Ken Atlee and Mr. John Kiddy presented revised plans along with an explanation of why they consider it an improvement over the existing R/C zoning (see attachments). Landscape buffers were increased, the road was reconfigured, and the retention pond was relocated with a footpath around it. Additional open space was created by removing four lots. Mr. Atlee stated that tree preservation for the development will now exceed 40% of existing index tree caliper inches and the development will meet the minimum pervious area requirement of 30%.

While obvious improvements were made the site plan with the above features, the Scenic A1A PRIDE committee found that this development did not meet the PUD definition for innovative design. We have concerns about the high density due to small lots and lack of open space. We would like to see significant trees identified and worked around. We support the exclusion of short-term rentals.

The vote was 7-0 in support of the above motion with one abstaining (Mike Goodman).

Sincerely,

[Signature]

Dennis Clark, Chair  
SCENIC A1A PRIDE  
5784 N. Oceanshore Blvd, Palm Coast, FL 32137

c.c. Ken Atlee, John Kiddy, Sid Ansbacher  
Jerry Cameron, Adam Mengel, Sean Moylan  
A1A PRIDE Board
WRITTEN STATEMENT IN SUPPORT OF
BEACHWALK PLANNED UNIT DEVELOPMENT

BACKGROUND

The purpose and intent language in the County’s Planned Unit Development (PUD) ordinance supports PUDs that “provide an opportunity for innovative urban design techniques, improved use of land, protection of valuable natural features in the community, desirable land use mix, open space, and more economical public services.” FCLDC s. 3.03.20.A. We list below the differences between:

CURRENT ZONING: R/C

1. Current zoning requires no A1A buffering for residential unless the site is south of SR 100.
2. Current zoning would allow single family homes with septic systems.
3. Current zoning would allow 1000 square foot homes, on 9,000 square foot lots.
4. Current zoning does not require residential use buffers along Jungle Hut Road, the east boundary, or the Parkway.

PROPOSED PUD

Our PUD includes:

1. 30-foot buffering of an undisturbed corridor on our west boundary leaving the natural vegetation maintaining more of the “Hammock” character along A1A.
2. Beachwalk will have a continuous 20-foot undisturbed buffer along Jungle Hut Road.
3. Beachwalk will have an additional 5-foot undisturbed buffer west of the existing 30-foot buffer along the east side of our site. Thus, a continuous 35-foot undisturbed buffer exists. We confirmed with County staff that at least 30 feet of undisturbed buffer lies between the eastern public path and our eastern property line.
4. We agreed to reduce the number of lots to 50, which preserves two substantial areas within our site as undisturbed green space.
5. As part of the enhanced preservation, we have eliminated the large lot 21 in the NW corner of Beachwalk, to further enhance the undisturbed buffer area that has a large concentration of hardwoods, again further protecting the ambiance of the Hammock.
6. We will extend existing sewer lines 3,600 feet at our expense, at an estimated $300,000, and perhaps substantially more, so we would have city sewer on every lot. No septic systems, which is one of the top Flagler County priorities.
7. Our extending the sewer will enable others to tie into the sewer line, facilitating the removal of septic systems currently in use, consistent with County legislative goals.
8. Our homes will be much larger than the 1,000 SF minimum allowed (our typical homes on file with the County on this project range from 1,800 – 2,400).
9. We have agreed to a footpath encircling the retention pond for connectivity between the east and west side of the retention pond located in the northerly midsection of the site. That pond was relocated to improve the aesthetics of the site from the original, centrally located pond.
10. We will have in excess of 34% open space.
11. 60% of our lots are adjacent to or face undisturbed buffers or lakes in the community.
Attachment B - Applicant's revised site plan

- The maximum building height is stated in the Development Agreement as two stories above a garage, not to exceed 60 ft in height.
- Home Owners Association will be responsible for maintenance of the proposed ponds and stormwater systems.
- The Construction is to be supervised and coordinated by the HMA.
- Stormwater and potable water will be provided by the City of Palm Coast.
- Fire services provided by Flagler County.
- Maximum lot area is 0.260 sq. ft.
- Average density: 0.34 units
- Autoplotter price: High $300,000 to low $400,000
- Yet to sell play equipment will be located as shown on the map.
- Short-term vacation rentals shall be prohibited.
AFFIDAVIT OF LEGAL NOTICE

I, the undersigned, being first duly sworn, do hereby state under oath and under penalty of perjury, that the following facts are true:

1. I am over the age of 18 and I am a resident of the State of Florida. I have personal knowledge of the facts herein and, if called as a witness, could testify competently thereto.

2. I either completed the legal notice described herein or it was completed under my responsible direction.

3. The facts herein relate specifically to Application # 3150 (Project # 2018080036).

4. Notice for this Application has been provided as stated herein for the (select as applicable):
   - Planning and Development Board meeting on ___________ [date]; and/or
   - Board of County Commissioners meeting on __6/17/19_________ [date].

5. __✓__ Newspaper publication (select one, proof of publication attached):
   - ✓ legal advertisement (Publication date: __5/29/19______)
   - 2 x 10 with map (Publication date: ___________)
   - 2 x 10 without map (Publication date: __________________)

6. __✓__ Mailed notice: __20__ [number] letters were mailed out on __5/31/19________ [date] to parcel owners as listed within Property Appraiser records within 300 feet of the subject parcel(s) (copy of parcel list and sample notice letter attached).

7. __✓__ Posted notice: __1__ [number] signs were posted on the subject parcel(s) on __5/31/19________ [date] (photographs of posted signs attached).

   By: __________________________
   Name: __Wendy A Hickey_________

Sworn and subscribed before me on __5/31/19________ [date] by ____________________________ [name of who (select one): X is personally known to me or _ produced __________________________ [document] as identification and who took an oath.

__________________________
NOTARY PUBLIC – STATE OF FLORIDA

Name: __________________________
Commission No.: GG 202551
My Commission Expires: __4/2/2022____
NOTICE OF REZONING
Pursuant to Section 2.07.00, Flagler County Land Development Code, and Chapter 125, Florida Statutes, the Flagler County Board of County Commissioners hereby provide notice of consideration of Application #3150 submitted by Atlee Development Group, Inc., as applicant for property owned by LRA RIO, LLC, and possible adoption of an Ordinance titled similar to:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AMENDING THE ZONING CLASSIFICATION OF A TOTAL OF 12.44 ACRES, MORE OR LESS, BEING PARCELS H AND I OF PROPERTY APPRAISER'S SUBDIVISION NUMBER 379, PARCEL NUMBER 40-10-31-5137-000H-0000, FROM R/C (RESIDENTIAL/LIMITED COMMERCIAL) TO PUD (PLANNED UNIT DEVELOPMENT) DISTRICT; ADOPTING A PUD DEVELOPMENT AGREEMENT AND PUD SITE DEVELOPMENT PLAN; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

Public hearings on the above-captioned matter will be held as follows:
FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS - June 17, 2019 at 5:30 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida.

All interested persons are urged to attend the public hearings and be heard. Anyone wishing to express their opinion may attend, telephone 386-313-4009 or write to: Flagler County Planning Department, 1769 E. Moody Blvd, Building 2, Bunnell, FL 32110 or email to planningdept@flaglercounty.org. Copies of the proposal, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning & Zoning Dept., 1769 East Moody Boulevard, Bldg. 2, Bunnell, Florida 32110.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT LEAST 48 HOURS PRIOR TO THE MEETING.

L2330167. May 29, 2019
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I hereby affirm mailed notice to owner on May 31, 2019 for the Board of County Commissioners Meeting on June 17, 2019 at 5:30 p.m.

Hasler
05/31/2019
$000.00

Wendy Hickey, Planner
011E11679482
May 31, 2019

Dear Property Owner:

As an owner of property within 300’ of the property referenced herein, Flagler County hereby advises you that:

A request by LRA Rio, LLC has been made to amend the zoning designation on approximately 11.57±/ acres from the present zoning designation of R/C (Residential/Limited Commercial) to the proposed zoning designation of PUD (Planned Unit Development) at 4931 North Oceanshore Boulevard being identified as parcel number 40-10-31-5137-000H0-0000.

You are hereby notified that a public hearing before the Flagler County Board of County Commissioners, as required by law, will be held in the Board Chambers of the Flagler County Government Services Building located at 1769 East Moody Boulevard, Building 2, Bunnell, Florida, on June 17, 2019, beginning at 5:30 p.m., (the Board Meeting starts at 5:00 p.m., with public hearings starting no later than 5:30 p.m.) or as soon as thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

Wendy Hickey
Planner

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.