

**FRUITLAND PARK CITY COMMISSION  
REGULAR MEETING AGENDA**

**November 10, 2022**

City Hall Commission Chambers  
506 West Berckman Street  
Fruitland Park, Florida 34731

**6:00 p.m.**

- 1. CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE**  
Invocation – Pastor Greg Yarbrough, Trinity Assembly of God  
  
Pledge of Allegiance – Police Chief Erik Luce
- 2. ROLL CALL**
- 3. SWEARING-IN AND INSTALLATION OF ELECTED OFFICIALS** (city clerk)  
District 1 - Patrick DeGrave  
District 2 - John Mobilian
- 4. ELECTION OF OFFICERS** (city clerk)
  - (a) Mayor**
  - (b) Vice Mayor**
- 5. SPECIAL PRESENTATIONS** (city clerk)
  - (a) *November 11, 2022 Veterans Day Proclamation***
  - (b) *October 31 to November 4, 2022 - National Veteran Small Business Week Proclamation***
- 6. LOCAL PLANNING AGENCY** (city clerk)  
On or before 6:30 p.m. recess to the local planning agency.
- 7. COMMUNITY REDEVELOPMENT AGENCY** (city clerk)  
On or before 6:45 p.m. recess to the community redevelopment agency.
- 8. CONSENT AGENDA**  
Routine items and items not anticipated to be controversial are placed on the Consent Agenda to expedite the meeting. If a Commissioner, staff member or member of the public wish to discuss any item, the procedure is as follows: (1) Pull the item(s) from the Consent Agenda; (2) Vote on remaining item(s); and (3) Discuss each pulled item separately and vote.

- (a) **Approval of Minutes** (city clerk)  
October 13, regular and August 8, 2022 workshop
- (b) **Resolution 2022-056 Employees' Deferred Compensation Plan Renewal** (city attorney/city manager/city treasurer/human resources director)  
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, RENEWING AND ADOPTING A DEFERRED COMPENSATION PLAN FOR THE EMPLOYEES OF THE CITY OF FRUITLAND PARK, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.
- (c) **Resolution 2022-064 SRO Program Amendment – Fruitland Park Elementary School – Lake County School Board Agreement** (city attorney/city manager/police chief)  
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, ADOPTING THE AMENDED AND RESTATED AGREEMENT BETWEEN THE SCHOOL BOARD OF LAKE COUNTY, FLORIDA AND THE CITY OF FRUITLAND PARK, FLORIDA FOR THE SCHOOL RESOURCE OFFICER PROGRAM 2022/2023; INCREASING COMPENSATION TO THE CITY OF FRUITLAND PARK IN THE AMOUNT OF \$5,101.00 FOR TOTAL ANNUAL COMPENSATION OF \$65,063.00; PROVIDING FOR AN EFFECTIVE DATE.
- (d) **Resolution 2022-065 – Urick Street Force Main Extension - Clean Water State Revolving Fund Administrative Services Proposal – Halff Associates Inc.** (city attorney/city manager)  
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING ADMINISTRATIVE SERVICES PROPOSAL DATED OCTOBER 11, 2022 FROM HALFF IN AN AMOUNT NOT TO EXCEED \$24,500; AUTHORIZING THE MAYOR TO EXECUTE THE PROPOSAL; PROVIDING FOR AN EFFECTIVE DATE.
- (e) **Resolution 2022-066 – Urick Street Force Main Extension - 60-Day Time Extension - Cathcart Construction Company LLC** (city attorney/city manager)  
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING 60-DAY EXTENSION TO CONSTRUCTION TIME REQUESTED BY CATHCART CONSTRUCTION

COMPANY FLORIDA LLC, OVIEDO; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY REQUIRED APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.

**(f) Lake County Educational Concurrency Review Committee Appointment** (city clerk)

Motion to appoint a member to serve on the Lake County Educational Concurrency Review Committee.

**(g) 2023 Proposed Meeting Schedule** (city clerk)

Motion to approve the proposed 2023 city commission meeting schedule.

**9. REGULAR AGENDA**

**(a) Resolution 2022-067 and Budget Amendment BT2023-001 Urick Street Sewer Extension Project Construction SRF Loan** (city treasurer)

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE 2022/2023 FISCAL YEAR BUDGET PURSUANT TO SEC. 6.07 OF THE CITY CHARTER TO INCREASE SRF SEWER LOAN REVENUE BUDGET AND THE SEWER SYSTEM IMPROVEMENT URICK STREET SEWER EXPENSE BUDGET; AND PROVIDING FOR AN EFFECTIVE DATE.

**(b) Executive Order 14074 Letter of Notification - Law Enforcement Support Office Surplus Program Participation** (city manager/police chief)

Motion to accept Executive Order 14074 Letter of Notification.

**(c) Audio System for Community Center Quotes** (city manager/parks and recreation director)

Motion to consider itemized quotes for the installation of an audio system to include speakers, main panel control system, microphones, amplifiers:

- Control Freak \$45,711.82
- Casaplex \$57,142.07

**PUBLIC HEARING**

**(d) Second Reading and Public Hearing - Ordinance 2022-020 Water Rate Increase** (city attorney/city manager/city treasurer)

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, FLORIDA AMENDING SECTION 50.30

IN CHAPTER 50 OF THE FRUITLAND PARK CODE OF ORDINANCES TO ADJUST THE WATER UTILITY RATES BASED ON JANUARY 2022 CONSUMER PRICE INDEX; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. (The first reading was held on October 13, 2022.)

- (e) **Second Reading and Public Hearing – Ordinance 2022-021 Water and Wastewater Rate Increase** (city attorney/city manager/city treasurer)

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING SECTION 99.60 IN CHAPTER 50 OF THE FRUITLAND PARK CODE OF ORDINANCES TO ADJUST THE WASTEWATER UTILITY RATES BASED ON JANUARY 2022 CONSUMER PRICE INDEX; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE. (The first reading was held on October 13, 2022.)

#### **QUASI-JUDICIAL PUBLIC HEARING**

- (f) **First Reading and Quasi-Judicial Public Hearing – Ordinance 2022-023 – SSCPA 14.98+ Acres – North of CR 466A and East of Oliver Lane - Petitioner: T. D. Burke** (city attorney/city manager/community development director)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT BY AMENDING THE FUTURE LAND USE PLAN DESIGNATION FROM LAKE COUNTY RURAL TO CITY MULTI-FAMILY HIGH DENSITY ON 14.98 +/- ACRES OF PROPERTY GENERALLY LOCATED NORTH OF CR 466A AND EAST OF OLIVER LANE; DIRECTING THE CITY MANAGER OR DESIGNEE TO TRANSMIT THE AMENDMENT TO THE APPROPRIATE GOVERNMENTAL AGENCIES PURSUANT TO CHAPTER 163, FLORIDA STATUTES; AUTHORIZING THE CITY MANAGER TO AMEND SAID COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY, CONFLICTS AND SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT

HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.  
(The second reading will be held on December 8, 2022.)

- (g) First Reading and Quasi-Judicial Public Hearing – Ordinance 2022-024 – Rezoning 19.56± Acres – 305 CR 466A MDA – Petitioner: T. D. Burke** (city attorney/city manager/community development director)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, REZONING 19.56 + ACRES OF PROPERTY FROM CITY OF FRUITLAND PARK C-2 AND LAKE COUNTY AGRICULTURE TO CITY OF FRUITLAND PARK MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) WITHIN THE CITY LIMITS OF FRUITLAND PARK FOR RESIDENTIAL AND COMMERCIAL USE; APPROVING A MASTER DEVELOPMENT AGREEMENT FOR THE PROPERTY; DIRECTING THE CITY MANAGER TO HAVE AMENDED THE ZONING MAP OF THE CITY OF FRUITLAND PARK; PROVIDING FOR SEVERABILITY AND SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE. (The second reading will be held on December 8, 2022.)

- (h) First Reading and Quasi-Judicial Public Hearing – Ordinance 2022-025 – Boundary Amendment - CR 466-A, East of Oliver Lane and West of Micro Racetrack Road – Petitioner: T. D. Burke** (city attorney/city manager/community development director)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE BOUNDARIES OF THE CITY OF FRUITLAND PARK FLORIDA, IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN SECTION 171.044, FLORIDA STATUTES, TO INCLUDE WITHIN THE CITY LIMITS APPROXIMATELY 15.00 ± ACRES OF LAND GENERALLY LOCATED NORTH OF CR 466-A, EAST OF OLIVER LANE AND WEST OF MICRO RACETRACK ROAD; DIRECTING THE CITY MANAGER TO PROVIDE CERTIFIED COPIES OF THIS ORDINANCE AFTER APPROVAL TO THE CLERK OF THE CIRCUIT COURT, THE LAKE COUNTY MANAGER AND THE DEPARTMENT OF STATE OF THE STATE OF FLORIDA; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY AND CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE. (The second reading will be held on December 8, 2022.)

- (i) **Quasi-Judicial Public Hearing – Resolution 2022-040 Lake Myrtle Breezes Variance – Petitioner: Crystal Lake Land Holdings LLC** (city attorney/city manager/community development)

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, GRANTING A VARIANCE TO THE LAND DEVELOPMENT REGULATIONS (LDR) RULE OF MINIMUM LOT WIDTH AT BUILDING SETBACK LINE FROM 80' TO 70' ON THE DESCRIBED PROPERTY LOCATED AT 1108 MYRTLE BREEZES COURT IN THE CITY OF FRUITLAND PARK, FLORIDA, OWNED BY CRYSTAL LAKE LAND HOLDINGS, LLC, PROVIDING FOR AN EXPIRATION DATE AND PROVIDING FOR AN EFFECTIVE DATE.

- (j) **Quasi-Judicial Public Hearing - Resolution 2022-062 Unity of Title – Indivisible Building Site 305 CR 466A – Petitioner: T. D. Burke**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A DECLARATION OF UNITY OF TITLE UNIFYING AS AN INDIVISIBLE BUILDING SITE, TWO PROPERTIES LOCATED AT 305 COUNTY ROAD 466-A, FRUITLAND PARK, FLORIDA, OWNED BY T.D. BURKE AND IDENTIFIED BY THE LAKE COUNTY PROPERTY APPRAISER AS ALTERNATE KEY NUMBER 3884325 AND ALTERNATE KEY NUMBER 1699649; PROVIDING FOR A DECLARATION OF UNITY OF TITLE TO BE RECORDED IN THE PUBLIC RECORDS OF LAKE COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

**END OF QUASI-JUDICIAL PUBLIC HEARING**

**END OF PUBLIC HEARING**

10. (a) **City Manager –**  
i. **Economic Development Status Update**  
ii. **LCWA 2022-023 Cooperative Stormwater Initiative**
- (b) **City Attorney**  
i. **City of Fruitland Park v. State of Florida Department of Management Services**

- ii. Michael and Laurie Fewless v. City of Fruitland Park**
- iii. U.S. Bank National Association v. Robert Moore and City of Fruitland Park, Lake County Case No. 2022-CA-00845**
- iv. Wayne Goodridge and Tammy Goodridge v. City of Fruitland Park, Lake County Case No. 2022-CA-1628**
- v. Fruitland Park Official City Code**

**11. UNFINISHED BUSINESS**

**12. PUBLIC COMMENTS**

This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Action may not be taken by the City Commission at this meeting; however, questions may be answered by staff or issues may be referred for appropriate staff action.

Note: Pursuant to F.S. 286.0114 and the City of Fruitland Park's Public Participation Policy adopted by Resolution 2013-023, members of the public shall be given a reasonable opportunity to be heard on propositions before the City Commission. Accordingly, comments, questions, and concerns regarding items listed on this agenda shall be received at the time the City Commission addresses such items during this meeting. Pursuant to Resolution 2013-023, public comments are limited to three minutes.

**13. COMMISSIONERS' COMMENTS**

- (a) Commissioner Mobilian**
- (b) Commissioner DeGrave**
- (c) Commissioner Bell**
- (d) Vice Mayor Gunter, Jr.**

**14. MAYOR'S COMMENTS**

**15. ADJOURNMENT**

**DATES TO REMEMBER**

- November 11, 2022 Veterans' Day - City Hall Closed
- November 11, 2022 American Legion Post 219 Veterans' Day Service, (Outside City Hall) at 11:00 a.m.;

November 10, 2022 Regular Agenda

- November 14, 2022, Lake County Parks, Recreation and Trails Advisory Board, Office of Parks and Trails, Conference Room, 2401 Woodlea Road, Tavares, Florida 32778 at 3:30 p.m.;
- November 17, 2022, Employee Thanksgiving Lunch, 205 West Berckman Street, Fruitland Park, Florida 34731 at 12:00 p.m.;
- November 18, 2022, Comedy Night, 205 West Berckman Street, Fruitland Park, Florida 34731 at 8:00 p.m.;
- November 19, 2022, Brews, Blues and BBQ, 205 West Berckman Street, Fruitland Park, Florida 34731 at 5:00 p.m.;
- November 24, 2022, Thanksgiving – City Hall Closed;
- November 24, 2022, Day After Thanksgiving – City Hall Closed;
- November 25, 2022, City Commission regular at 6:00 p.m. – Cancelled;
  
- December 2, 2022, Employee Christmas Party 205 West Berckman Street, Fruitland Park, Florida 34731 at 6:00 p.m.;
- December 7, 2022, Annual School Concurrency Committee Meeting, Lake County School District, Board Room, at 10:00 a.m.;
- December 8, 2022 Heritage Community Church Christmas Luncheon, 509 West Berckman Street, Fruitland Park, Florida 34731 at 11:00 a.m.;
- December 8, 2022, City Commission regular at 6:00 p.m.;
- December 9, 2022 Hometown Christmas at 5:30 p.m.;
- December 17, 2022, *10<sup>th</sup> Annual Wreaths Across America* Ceremony, Shiloh Cemetery, Fruitland Park, Florida 34731 at 12:00 p.m.;
- December 22, 2022, City Commission regular at 6:00 p.m. – Cancelled
- December 23, 2022, City Hall Closed – New Year’s Eve,
- December 26, 2022, City Hall Closed – Christmas Day, and
- December 30, 2022, City Hall Closed – New Year’s Day

Please note that in addition to the city commission meetings, more than one city commissioner may be present at the above-mentioned events.

Any person requiring a special accommodation at this meeting because of disability or physical impairment should contact the City Clerk’s Office at City Hall (352) 360-6727 at least forty-eight (48) hours prior to the meeting. (§286.26 F.S.)

If a person decides to appeal any decision made by the City of Fruitland Park with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings and ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The city does not provide verbatim records. (§286.0105, F.S.)

**PLEASE TURN OFF ELECTRONIC DEVICES OR PLACE IN VIBRATE MODE**



**CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 3**

**ITEM TITLE:** SWEARING-IN AND INSTALLATION OF ELECTED OFFICIALS

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Monday, October 31, 2022

**SUBMITTED BY:** City Clerk

**BRIEF NARRATIVE:** Swearing-in and installation elected officials for the City of Fruitland Park Commissioners:

- (a) District 1
- (b) District 2

**FUNDS REQUIRED:** None

**ATTACHMENTS:** Oath of Office

**RECOMMENDATION:**

**ACTION:**



506 West Berckman Street, Fruitland Park, Florida 34731

## OATH OF OFFICE

“I (name) do solemnly swear (or affirm) that I will support and uphold the Constitution and Laws of the United States and of the State of Florida; that I am qualified under the law to hold the office which I am about to assume, and that I will faithfully and impartially perform and discharge the duties of the office of city commissioner, according to the law, to the best of my ability, so help me God (optional).”

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Signature of Elected/Appointed Official

Subscribed and sworn to before me this <sup>th</sup> day of, 20

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Signature of Person Administering Oath

**CITY OF FRUITLAND PARK**  
**AGENDA ITEM SUMMARY SHEET**  
Item Number: 4

**ITEM TITLE:** **ANNUAL ELECTION**

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Monday, October 31, 2022

**SUBMITTED BY:** City Clerk

**BRIEF NARRATIVE:** **Commission Members' Annual Election** in accordance with Article III, Section 3.07, Mayor, the city's charter requires the city commission on an annual basis at its first regular meeting or soon thereafter after the November regular election to elect one of its members as:

(a) Mayor

(b) Vice Mayor

**FUNDS REQUIRED:**

**ATTACHMENTS:**

**RECOMMENDATION:**

**ACTION:** **Approve the nominations**

**CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 5a-b**

**ITEM TITLE:** SPECIAL PRESENTATIONS

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Monday, October 31, 2022

**SUBMITTED BY:** City Clerk

**BRIEF NARRATIVE:** SPECIAL PRESENTATIONS

(a) *November 11, 2022 Veterans Day Proclamation*

(b) *October 31 to November 4, 2022 - National Veteran Small Business Week Proclamation*

**FUNDS REQUIRED:** None

**ATTACHMENTS:** Proclamations

**RECOMMENDATION:**

**ACTION:**



# Proclamation

**WHEREAS**, on the 11<sup>th</sup> hour of the 11<sup>th</sup> day of the 11<sup>th</sup> month of 1918, armist between Germany and the allied nations were formed and on March 15, 1919, The American Legion was founded in Paris, France, by U.S. World War I American Legion caucus held by the American Expeditionary Force stationed there who were dedicated to four pillars of service and advocacy: veterans, military personnel, youth and patriotic values; and

**WHEREAS**, in 1919, the American Legion was chartered and incorporated by the United States Congress as a patriotic veterans organization devoted to mutual helpfulness; on June 4, 1928, congress passed a resolution calling for the observance of November 11<sup>th</sup> with appropriate ceremonies, and on June 1, 1954, to expand its significance, the name of the holiday was changed to *Veterans Day*, and

**WHEREAS**, in September 1955, the Town Council of Fruitland Park approved dedicating a new recreation area, presented by the Lions Club, naming *Memorial Park* now known as *Veterans Park* and in the following year, installed a marker inscribed with the names of the Fruitland Park boys who gave their lives in the service of our country; and

**WHEREAS**, in 1979, the State Legislature passed a bill dedicating November 11<sup>th</sup> of each year to the cause of world peace and dedicated that date as *Veterans Day* henceforth and forevermore; and

**WHEREAS**, John Gella Memorial Unit 219 Inc., of the American Legion Auxiliary started in March 1980 and on April 8, 1993, the City of Fruitland Park Commission accepted the Post's request and erected a six-foot monument at the front of city hall, on the corner of College Avenue and Berckman Street, as a cornerstone of the community where gatherings have since been held as a memorial to veterans of all wars and all branches of the military; and

**WHEREAS**, the city commission express heartfelt gratitude to the members of The John Gella Memorial Unit 219 Inc., of the American Legion Auxiliary for their continued devotion in working with our veterans within the community and commit to support its tremendous efforts in paying homage to the current and fallen military service personnel of all its wars with a plaque displayed at city hall as they have contributed so much to the preservation of this nation,

**NOW, THEREFORE, BE IT PROCLAIMED THAT** I, Chris Cheshire, Mayor of the City of Fruitland Park, Florida", on behalf of the city commissioners, do hereby proclaim November 10, 2022 as ***Veterans Day*** and jointly with The John Gella Memorial Unit 219 Inc., of the American Legion Auxiliary invite all of our citizens to solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air, and on foreign shores, to preserve our heritage of freedom on Friday, November 11, 2022 at 11:00 a.m. outside city hall so that their efforts shall not have been in vain.

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Chris Cheshire, Mayor

Attest:

Esther Coulson, City Clerk

Dated this 10<sup>th</sup> day of November 2022



# Proclamation

WHEREAS, in 2015, a resolution was introduced to the United State Congress to designate the first week in November as *National Veteran Small Business Week*; and

WHEREAS, Lake County is home to more than two thousand seven hundred veteran-owned firms generating more than \$840 million in annual sales according to the U.S. Census Bureau, 2012 Economic Census: Survey of Business Owners; and

WHEREAS, there are 185,756 veteran-owned businesses in Florida generating \$57.7 billion in annual sales; and

WHEREAS, less than one half of one percent of the US population served our country in the armed forces yet veteran-owned businesses represent nine percent of all US firms (2017 SBA); and

WHEREAS, the Florida Association of Veteran Owned Businesses (FVOB), has over 375 veteran-owned businesses and patriotic supporter (non-veteran) businesses as members; and

WHEREAS, FAVOB is a non-profit entity that advocates, educates and connects our veteran-owned businesses to economic opportunity; and

WHEREAS, FAVOB and the Small Business Administration (SBA) have entered into a Strategic Alliance Memorandum as of October 2020; and

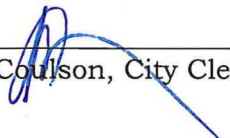
WHEREAS, National Veteran Small Business Week” is dedicated to supporting veteran entrepreneurs and business owners and their families, and to encourage people to purchase goods and services from these hard-working men and women; and

WHEREAS, Florida veterans and their families deserve our unwavering support and gratitude;

**NOW, THEREFORE, BE IT RESOLVED**, that I, Chris Cheshire, Mayor of the City of Fruitland Park, Florida, on behalf of the city commissioners, do hereby proclaim October 31<sup>st</sup> to November 4<sup>th</sup> 2022 as “*VETERANS SMALL BUSINESS WEEK*” in the City of Fruitland Park and call upon all residents to recognize the contributions of our community’s local veteran-owned businesses and the key role they play in keeping our economy strong.

Dated this 21<sup>st</sup> day of October 2022.

  
\_\_\_\_\_  
Chris Cheshire, Mayor

Attest:  
  
\_\_\_\_\_  
Esther B. Coulson, City Clerk



CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 6

**ITEM TITLE:** Local Planning Agency (LPA) Meeting

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Monday, October 31, 2022

**SUBMITTED BY:** City Clerk

**BRIEF NARRATIVE:** LPA Establishment Ordinance 226 and Florida Statutes 163.3174

**FUNDS REQUIRED:** No

**ATTACHMENT** Ordinance and Florida Statutes

**RECOMMENDATION:** As soon as practical, recess to the Local Planning Agency meeting.

**ACTION:** None

AN ORDINANCE OF THE (CITY ~~OR COUNTY~~) OF Fruitland Park,  
FLORIDA, DESIGNATING AND ESTABLISHING THE City Commission  
AS ITS LOCAL PLANNING AGENCY PURSUANT TO THE LOCAL GOVERNMENT  
COMPREHENSIVE PLANNING ACT OF 1975 (Chapters 163.3161 - 163.3211,  
Florida Statutes); SETTING FORTH SAID AGENCY'S DUTIES AND RESPON-  
SIBILITIES; ESTABLISHING SAID AGENCY'S ORGANIZATION, RULES AND  
PROCEDURES; REQUIRING THAT ALL MEETINGS BE PUBLIC AND PROVIDING  
FOR THE KEEPING OF PUBLIC RECORDS; PROVIDING FOR FINANCIAL  
SUPPORT; PROVIDING FOR SEVERABILITY OF ANY PORTION DECLARED  
INVALID; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND  
PROVIDING FOR THE EFFECTIVE DATE HEREOF. *THIS IS AN EMERGENCY  
ORDINANCE EFFECTING THE WELFARE OF THE CITIZENS.*  
BE IT ORDAINED BY THE City Commission OF  
THE (CITY ~~OR COUNTY~~) OF Fruitland Park, FLORIDA:

Section 1. AUTHORITY. This ordinance is enacted pursuant to  
and in accordance with, provisions of Chapter 163, Florida  
Statutes (Local Government Comprehensive Planning Act of 1975).

Section 2. DESIGNATION AND ESTABLISHMENT OF LOCAL LAND  
PLANNING AGENCY. Pursuant to, and in accordance with, Section  
163.3174, of Florida Statutes (the Local Government Comprehen-  
sive Planning Act of 1975) the City Commission  
is hereby designated and established as the local planning  
agency for the ~~(City)~~ incorporated territory of Fruitland Park,  
Florida.

Section 3. DUTIES AND RESPONSIBILITIES OF THE LOCAL PLANNING  
AGENCY. The local planning agency, in accordance with the  
Local Government Comprehensive Planning Act of 1975, Section  
163.3161-3211, Florida Statutes, shall:

- (a) Conduct the comprehensive planning program and prepare  
the comprehensive plan or elements or portions thereof  
for the (City ~~OR COUNTY~~) of Fruitland Park;
- (b) Coordinate said comprehensive plan or elements or portions  
thereof with the comprehensive plans of other appropriate  
local governments and the State of Florida;



- (c) Recommend said comprehensive plan or elements or portions thereof to the City Commission for adoption; and
- (d) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the City Commission such changes in the comprehensive plan as may be required from time to time.

Section 4. ORGANIZATION, RULES AND PROCEDURES OF THE AGENCY.

Members of the local planning agency shall continue to be appointed and follow such rules of procedure, methods of choosing officers, setting of public meetings, providing of financial support, and accomplishing its duties as provided in The City Charter.

Section 5. PUBLIC MEETINGS AND RECORDS. All meetings of the local planning agency shall be public meetings and all agency records shall be public records. The local planning agency shall encourage public participation.

Section 6. The City Commission shall appropriate funds at its discretion to the local planning agency for expenses necessary in the conduct of its work. The local planning agency may, in order to accomplish the purposes and activities required by the Local Government Comprehensive Planning Act of 1975, expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; provided acceptance of loans or grants must be approved by the City Commission.

Section 6. SEVERABILITY. If any word, sentence, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by an court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not effect the validity of the remaining portions thereof.

Section 7. REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS.

All ordinances and resolutions of the governing body in conflict herewith are hereby repealed.

Section 8. EFFECTIVE DATE. This ordinance shall become effective immediately upon its final passage and adoption, as an emergency ordinance.

PASSED AND ADOPTED BY THE City Commission OF THE (CITY ~~OF~~) OF Fruitland Park, FLORIDA, THIS 24 DAY OF June, A.D., 1976

Jack Deulh  
Mayor or Chairman

ATTEST:

Lois A. Lowery, City Clerk

FIRST READING: June 24, 1976

SECOND READING: Waived

THIRD READING: Waived

Select Year:  

## The 2020 Florida Statutes

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[Title XI](#)  
 COUNTY ORGANIZATION AND INTERGOVERNMENTAL  
 RELATIONS

[Chapter 163](#)  
 INTERGOVERNMENTAL  
 PROGRAMS

[View Entire  
 Chapter](#)

### **163.3174 Local planning agency.—**

(1) The governing body of each local government, individually or in combination as provided in s. [163.3171](#), shall designate and by ordinance establish a “local planning agency,” unless the agency is otherwise established by law. Notwithstanding any special act to the contrary, all local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school district appointed by the school board as a nonvoting member of the local planning agency or equivalent agency to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application. However, this subsection does not prevent the governing body of the local government from granting voting status to the school board member. The governing body may designate itself as the local planning agency pursuant to this subsection with the addition of a nonvoting school board representative. All local planning agencies shall provide opportunities for involvement by applicable community college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. [163.02](#), provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to adopt and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(b) In the case of chartered counties, the planning responsibility between the county and the several municipalities therein shall be as stipulated in the charter.

(2) Nothing in this act shall prevent the governing body of a local government that participates in creating a local planning agency serving two or more jurisdictions from continuing or creating its own local planning agency. Any such governing body which continues or creates its own local planning agency may designate which local planning agency functions, powers, and duties will be performed by each such local planning agency.

(3) The governing body or bodies shall appropriate funds for salaries, fees, and expenses necessary in the conduct of the work of the local planning agency and shall also establish a schedule of fees to be charged by the agency. To accomplish the purposes and activities authorized by this act, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(a) Be the agency responsible for the preparation of the comprehensive plan or plan amendment and shall make recommendations to the governing body regarding the adoption or amendment of such plan. During the preparation of

the plan or plan amendment and prior to any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with public notice, on the proposed plan or plan amendment. The governing body in cooperation with the local planning agency may designate any agency, committee, department, or person to prepare the comprehensive plan or plan amendment, but final recommendation of the adoption of such plan or plan amendment to the governing body shall be the responsibility of the local planning agency.

(b) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the governing body such changes in the comprehensive plan as may from time to time be required, including the periodic evaluation and appraisal of the comprehensive plan required by s. [163.3191](#).

(c) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.

(d) Perform any other functions, duties, and responsibilities assigned to it by the governing body or by general or special law.

(5) All meetings of the local planning agency shall be public meetings, and agency records shall be public records.

**History.**—s. 6, ch. 75-257; s. 1, ch. 77-223; s. 5, ch. 85-55; s. 2, ch. 92-129; s. 9, ch. 95-310; s. 9, ch. 95-341; s. 1, ch. 2002-296; s. 10, ch. 2011-139; s. 2, ch. 2012-99.

**ORDINANCE 2003-004**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA; AMENDING CHAPTER 152, SECTION 152.110 OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF FRUITLAND PARK TO PROVIDE FOR A REPRESENTATIVE FROM THE LAKE COUNTY SCHOOL DISTRICT AS A NON-VOTING MEMBER ON THE CITY OF FRUITLAND PARK'S LOCAL PLANNING AGENCY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR INCLUSION IN THE LAND DEVELOPMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, recent amendments to the Local Government Comprehensive Planning and Land Development Regulation Act (F.S. 163.3161, et seq.) require that a representative from the Lake County School District serve as a non-voting member on the City of Fruitland Park's Local Planning Agency; and

**WHEREAS**, the City Commission of the City of Fruitland Park desires to make the necessary amendments to the Land Development Regulations to authorize a representative from the Lake County School Board to serve as a non-voting member on the City's Local Planning Agency; and

**WHEREAS**, the City Commission desires that the School Board approve the School Board member from District #2 (Fruitland Park's district) as the School Board's representative on the Local Planning Agency.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FRUITLAND PARK, FLORIDA.**

**SECTION 1.** Chapter 152, Section 152.110 of the Land Development Regulations of the City of Fruitland Park is hereby amended to read as follows:

**Section 152.110: LOCAL LAND PLANNING AGENCY**

Designation and establishment of Local Land Planning Agency. Pursuant to, and in accordance with Section 163.3174, Florida Statutes (the Local Government Comprehensive Planning Act of 1975) the City Commission is hereby designated and established as the Local Planning Agency for the incorporated territory of the city. Additionally, the Local Planning Agency shall include one (1) non-voting representative of the Lake County School District appointed by the Lake County School Board.

a) Public Meetings and Records.

All meetings of the Local Planning Agency shall be public meeting and all agency records shall be public records. The Local Planning Agency shall encourage public participation.

b) Appropriation of Funds.

The City Commission shall appropriate funds at its discretion to the Local Planning Agency for expenses necessary in the conduct of its work. The Local Planning Agency may, in order to accomplish the purposes and activities required by the Local Government Comprehensive Planning Act of 1975, expend all sums appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; provided acceptance of loans or grants must be approved by the City Commission.

c) Powers and Duties.

The Local Planning Agency, in accordance with the Local Government Comprehensive Planning Act of 1975, Section 163.3161 through 163.3111, Florida Statutes shall:

- 1) Conduct the comprehensive planning program and prepare the comprehensive plan or elements or portions thereof for the city.
- 2) Coordinate the comprehensive plan or elements or portions thereof with the comprehensive plans of other appropriate local governments and the state.
- 3) Recommend the comprehensive plan or elements or portions thereof to the City Commission for adoption.
- 4) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the City Commission such changes in the comprehensive plan as may be required from time to time.

**SECTION 2.** All ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3.** The provisions of this ordinance are intended to be incorporated into the Land Development Regulations of the City of Fruitland Park, Florida and the sections of this ordinance may be renumbered, relettered, and the word "ordinance" may be changed to "section," "article," or such other word or phrase in order to accomplish such intention.

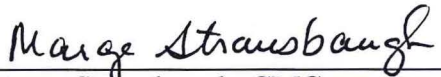
**SECTION 4.** If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this ordinance.

**SECTION 5.** This ordinance shall be effective upon passage.

**PASSED AND ORDAINED** this <sup>24<sup>th</sup> (m)</sup> ~~30<sup>th</sup>~~ day of <sup>April (m)</sup> ~~May~~, 2003 by the City Commission of the City of Fruitland Park, Florida.

  
WILLIAM R. WHITE, MAYOR

ATTEST:

  
Marge Strausbaugh, CMC,  
City Clerk

Passed First Reading 3-27-03

Passed Second Reading 4-24-03 (m)

Approved as to form and legality:

  
Scott A. Gerken, City Attorney



**CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 7**

**ITEM TITLE:** Community Redevelopment Agency (CRA) Meeting

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Monday, October 31, 2022

**SUBMITTED BY:** City Clerk

**BRIEF NARRATIVE:** CRA Establishment Ordinance 95-001, Resolution 2019-050, §163.362, §163.386, §163.387 and Chapter 189, Florida Statutes.

**FUNDS REQUIRED:** No

**ATTACHMENT** Ordinance and Florida Statutes

**RECOMMENDATION:** As soon as practical, recess to the Local Planning Agency meeting.

**ACTION:** None



**RESOLUTION 2019-050**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING THE CONTINUED EXISTENCE OF THE COMMUNITY REDEVELOPMENT AGENCY AND TRUST FUND; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Community Redevelopment Agency was established and the initial CRA plan was adopted by the City Commission of the City of Fruitland Park on March 16, 1995; and

**WHEREAS**, consistent with s. 163.362, Florida Statutes, the initial CRA plan provides a 30 year term to complete all redevelopment financed by increment revenues; therefore, completion of all redevelopment must occur by the end of the fiscal year 2025, unless the continued existence is approved by a majority vote of the members of the governing body; and

**WHEREAS**, because the CRA was created before July 1, 2002, the City Commission may extend the CRA for an additional 30 years, for a total of 60 years; and

**WHEREAS**, the City Commission, at a duly noticed public hearing, in accordance with Sec. 163.361, Florida Statutes, has considered the purpose of the Community Redevelopment Agency, its accomplishments and finds that it is in the best interests of the City of Fruitland Park and its residents and businesses to provide for its continued existence for an additional 30 year period.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

Section 1. The Community Redevelopment Agency and Trust Fund established March 16, 1995, shall continue in existence for a total of 60 years, thereby having a termination date of September 30, 2055.

Section 2. This resolution shall take effect immediately upon its adoption by the city Commission of the City of Fruitland Park, Florida.

PASSED AND RESOLVED this 19<sup>th</sup> day of September 2019, by the City Commission of the City of Fruitland Park, Florida.

**SEAL**

**CITY COMMISSION OF THE CITY OF  
FRUITLAND PARK, FLORIDA**



CHRIS CHESHIRE, MAYOR

ATTEST:



ESTHER COULSON, CITY CLERK

|                       |                                     |        |                          |       |                          |              |                                     |          |
|-----------------------|-------------------------------------|--------|--------------------------|-------|--------------------------|--------------|-------------------------------------|----------|
| Mayor Cheshire        | <input checked="" type="checkbox"/> | (Yes), | <input type="checkbox"/> | (No), | <input type="checkbox"/> | (Abstained), | <input type="checkbox"/>            | (Absent) |
| Vice Mayor Gunter     | <input checked="" type="checkbox"/> | (Yes), | <input type="checkbox"/> | (No), | <input type="checkbox"/> | (Abstained), | <input type="checkbox"/>            | (Absent) |
| Commissioner Bell     | <input checked="" type="checkbox"/> | (Yes), | <input type="checkbox"/> | (No), | <input type="checkbox"/> | (Abstained), | <input type="checkbox"/>            | (Absent) |
| Commissioner DeGrave  | <input checked="" type="checkbox"/> | (Yes), | <input type="checkbox"/> | (No), | <input type="checkbox"/> | (Abstained), | <input type="checkbox"/>            | (Absent) |
| Commissioner Mobilian | <input type="checkbox"/>            | (Yes), | <input type="checkbox"/> | (No), | <input type="checkbox"/> | (Abstained), | <input checked="" type="checkbox"/> | (Absent) |

Approved as to form and legality:



Anita Geraci-Carver, City Attorney

Select Year:  

## The 2020 Florida Statutes

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### [Title XI](#)

#### COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS

### [Chapter 163](#)

#### INTERGOVERNMENTAL PROGRAMS

### [View Entire Chapter](#)

**163.340** **Definitions.**—The following terms, wherever used or referred to in this part, have the following meanings:

- (1) “Agency” or “community redevelopment agency” means a public agency created by, or designated pursuant to, s. [163.356](#) or s. [163.357](#).
- (2) “Public body” means the state or any county, municipality, authority, special district as defined in s. [165.031\(7\)](#), or other public body of the state, except a school district.
- (3) “Governing body” means the council, commission, or other legislative body charged with governing the county or municipality.
- (4) “Mayor” means the mayor of a municipality or, for a county, the chair of the board of county commissioners or such other officer as may be constituted by law to act as the executive head of such municipality or county.
- (5) “Clerk” means the clerk or other official of the county or municipality who is the custodian of the official records of such county or municipality.
- (6) “Federal Government” includes the United States or any agency or instrumentality, corporate or otherwise, of the United States.
- (7) “Slum area” means an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements, whether residential or nonresidential, which are impaired by reason of dilapidation, deterioration, age, or obsolescence, and exhibiting one or more of the following factors:
  - (a) Inadequate provision for ventilation, light, air, sanitation, or open spaces;
  - (b) High density of population, compared to the population density of adjacent areas within the county or municipality; and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or
  - (c) The existence of conditions that endanger life or property by fire or other causes.
- (8) “Blighted area” means an area in which there are a substantial number of deteriorated or deteriorating structures; in which conditions, as indicated by government-maintained statistics or other studies, endanger life or property or are leading to economic distress; and in which two or more of the following factors are present:
  - (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities.
  - (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions.
  - (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness.
  - (d) Unsanitary or unsafe conditions.
  - (e) Deterioration of site or other improvements.
  - (f) Inadequate and outdated building density patterns.
  - (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality.
  - (h) Tax or special assessment delinquency exceeding the fair value of the land.

- (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality.
- (j) Incidence of crime in the area higher than in the remainder of the county or municipality.
- (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality.
- (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality.
- (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area.
- (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.
- (o) A substantial number or percentage of properties damaged by sinkhole activity which have not been adequately repaired or stabilized.

However, the term “blighted area” also means any area in which at least one of the factors identified in paragraphs (a) through (o) is present and all taxing authorities subject to s. [163.387\(2\)\(a\)](#) agree, either by interlocal agreement with the agency or by resolution, that the area is blighted. Such agreement or resolution must be limited to a determination that the area is blighted. For purposes of qualifying for the tax credits authorized in chapter 220, “blighted area” means an area as defined in this subsection.

(9) “Community redevelopment” or “redevelopment” means undertakings, activities, or projects of a county, municipality, or community redevelopment agency in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight, or for the reduction or prevention of crime, or for the provision of affordable housing, whether for rent or for sale, to residents of low or moderate income, including the elderly, and may include slum clearance and redevelopment in a community redevelopment area or rehabilitation and revitalization of coastal resort and tourist areas that are deteriorating and economically distressed, or rehabilitation or conservation in a community redevelopment area, or any combination or part thereof, in accordance with a community redevelopment plan and may include the preparation of such a plan.

(10) “Community redevelopment area” means a slum area, a blighted area, or an area in which there is a shortage of housing that is affordable to residents of low or moderate income, including the elderly, or a coastal and tourist area that is deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout or inadequate street layout, or a combination thereof which the governing body designates as appropriate for community redevelopment. For community redevelopment agencies created after July 1, 2006, a community redevelopment area may not consist of more than 80 percent of a municipality.

(11) “Community redevelopment plan” means a plan, as it exists from time to time, for a community redevelopment area.

(12) “Related activities” means:

- (a) Planning work for the preparation of a general neighborhood redevelopment plan or for the preparation or completion of a communitywide plan or program pursuant to s. [163.365](#).
- (b) The functions related to the acquisition and disposal of real property pursuant to s. [163.370\(4\)](#).
- (c) The development of affordable housing for residents of the area.
- (d) The development of community policing innovations.

(13) “Real property” means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith and every estate, interest, right, and use, legal or equitable, therein, including but not limited to terms for years and liens by way of judgment, mortgage, or otherwise.

(14) “Bonds” means any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures, or other obligations.

(15) “Obligee” means and includes any bondholder, agents or trustees for any bondholders, or lessor demising to the county or municipality property used in connection with community redevelopment, or any assignee or assignees

of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the county or municipality.

(16) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic and includes any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(17) "Area of operation" means, for a county, the area within the boundaries of the county, and for a municipality, the area within the corporate limits of the municipality.

(18) "Housing authority" means a housing authority created by and established pursuant to chapter 421.

(19) "Board" or "commission" means a board, commission, department, division, office, body or other unit of the county or municipality.

(20) "Public officer" means any officer who is in charge of any department or branch of the government of the county or municipality relating to health, fire, building regulations, or other activities concerning dwellings in the county or municipality.

(21) "Debt service millage" means any millage levied pursuant to s. 12, Art. VII of the State Constitution.

(22) "Increment revenue" means the amount calculated pursuant to s. ~~163.387~~(1).

(23) "Community policing innovation" means a policing technique or strategy designed to reduce crime by reducing opportunities for, and increasing the perceived risks of engaging in, criminal activity through visible presence of police in the community, including, but not limited to, community mobilization, neighborhood block watch, citizen patrol, citizen contact patrol, foot patrol, neighborhood storefront police stations, field interrogation, or intensified motorized patrol.

(24) "Taxing authority" means a public body that levies or is authorized to levy an ad valorem tax on real property located in a community redevelopment area.

**History.**—s. 3, ch. 69-305; s. 1, ch. 77-391; s. 1, ch. 81-44; s. 3, ch. 83-231; ss. 2, 22, ch. 84-356; s. 83, ch. 85-180; s. 72, ch. 87-243; s. 33, ch. 91-45; s. 1, ch. 93-286; s. 1, ch. 94-236; s. 1447, ch. 95-147; s. 2, ch. 98-201; s. 1, ch. 98-314; s. 2, ch. 2002-294; s. 7, ch. 2006-11; s. 1, ch. 2006-307; s. 20, ch. 2013-15; s. 7, ch. 2015-30.

Select Year:  

## The 2017 Florida Statutes

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[Title XI](#)  
 COUNTY ORGANIZATION AND INTERGOVERNMENTAL  
 RELATIONS

[Chapter 163](#)  
 INTERGOVERNMENTAL  
 PROGRAMS

[View Entire  
 Chapter](#)

### **163.356**      **Creation of community redevelopment agency.—**

(1) Upon a finding of necessity as set forth in s. [163.355](#), and upon a further finding that there is a need for a community redevelopment agency to function in the county or municipality to carry out the community redevelopment purposes of this part, any county or municipality may create a public body corporate and politic to be known as a “community redevelopment agency.” A charter county having a population less than or equal to 1.6 million may create, by a vote of at least a majority plus one of the entire governing body of the charter county, more than one community redevelopment agency. Each such agency shall be constituted as a public instrumentality, and the exercise by a community redevelopment agency of the powers conferred by this part shall be deemed and held to be the performance of an essential public function. Community redevelopment agencies of a county have the power to function within the corporate limits of a municipality only as, if, and when the governing body of the municipality has by resolution concurred in the community redevelopment plan or plans proposed by the governing body of the county.

(2) When the governing body adopts a resolution declaring the need for a community redevelopment agency, that body shall, by ordinance, appoint a board of commissioners of the community redevelopment agency, which shall consist of not fewer than five or more than nine commissioners. The terms of office of the commissioners shall be for 4 years, except that three of the members first appointed shall be designated to serve terms of 1, 2, and 3 years, respectively, from the date of their appointments, and all other members shall be designated to serve for terms of 4 years from the date of their appointments. A vacancy occurring during a term shall be filled for the unexpired term. As provided in an interlocal agreement between the governing body that created the agency and one or more taxing authorities, one or more members of the board of commissioners of the agency may be representatives of a taxing authority, including members of that taxing authority’s governing body, whose membership on the board of commissioners of the agency would be considered an additional duty of office as a member of the taxing authority governing body.

(3)(a) A commissioner shall receive no compensation for services, but is entitled to the necessary expenses, including travel expenses, incurred in the discharge of duties. Each commissioner shall hold office until his or her successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the county or municipality, and such certificate is conclusive evidence of the due and proper appointment of such commissioner.

(b) The powers of a community redevelopment agency shall be exercised by the commissioners thereof. A majority of the commissioners constitutes a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws require a larger number. Any person may be appointed as commissioner if he or she resides or is engaged in business, which means owning a business, practicing a profession, or performing a service for compensation, or serving as an officer or director of a corporation or other business entity so engaged, within the area of operation of the agency, which shall be coterminous with the area of operation of the county or municipality, and is otherwise eligible for such appointment under this part.

(c) The governing body of the county or municipality shall designate a chair and vice chair from among the commissioners. An agency may employ an executive director, technical experts, and such other agents and

employees, permanent and temporary, as it requires, and determine their qualifications, duties, and compensation. For such legal service as it requires, an agency may employ or retain its own counsel and legal staff. An agency authorized to transact business and exercise powers under this part shall file with the governing body, on or before March 31 of each year, a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses as of the end of such fiscal year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the county or municipality and that the report is available for inspection during business hours in the office of the clerk of the city or county commission and in the office of the agency.

(d) At any time after the creation of a community redevelopment agency, the governing body of the county or municipality may appropriate to the agency such amounts as the governing body deems necessary for the administrative expenses and overhead of the agency, including the development and implementation of community policing innovations.

(4) The governing body may remove a commissioner for inefficiency, neglect of duty, or misconduct in office only after a hearing and only if he or she has been given a copy of the charges at least 10 days prior to such hearing and has had an opportunity to be heard in person or by counsel.

**History.**—s. 2, ch. 77-391; s. 1, ch. 83-231; s. 6, ch. 84-356; s. 903, ch. 95-147; s. 4, ch. 98-314; s. 41, ch. 2001-266; s. 4, ch. 2002-294; s. 2, ch. 2006-307.

**CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 8a-g**

**ITEM TITLE:** Draft Meeting Minutes, Resolutions 2022-056 Retirement ICMA MissionSquare; 2022-064, SRO Program Amendment; 2022-065 Urick Street Force Main Extension Proposal; 2022-066 Urick Street Force Main Time Extension; Lake County Educational Concurrency Review Committee Appointment; and 2023 Proposed Meeting Schedule.

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Thursday, November 3, 2022

**SUBMITTED BY:** See below

**BRIEF NARRATIVE:** Routine items and items not anticipated to be controversial are placed on the Consent Agenda to expedite the meeting. If a commissioner, staff member or member of the public wish to discuss any item, the procedure is as follows: (1) Pull the item(s) from the Consent Agenda; (2) Vote on remaining item(s), and (3) Discuss each pulled item separately and vote.

- (a) **Approval of Minutes** (city clerk)  
October 13, 2022 regular and August 8, 2022 workshop meeting minutes.
  
- (b) **Resolution 2022-056 Employees' Deferred Compensation Plan Renewal** (city attorney/city manager/city treasurer/human resources director)  
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, RENEWING AND ADOPTING A DEFERRED COMPENSATION PLAN FOR THE EMPLOYEES OF THE CITY OF FRUITLAND PARK, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.
  
- (c) **Resolution 2022-064 SRO Program Amendment – Fruitland Park Elementary School – Lake County School Board Agreement** (city attorney/city manager/police chief)  
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, ADOPTING THE AMENDED AND RESTATED AGREEMENT BETWEEN THE SCHOOL BOARD OF LAKE COUNTY, FLORIDA AND THE CITY OF FRUITLAND PARK, FLORIDA FOR THE SCHOOL RESOURCE OFFICER PROGRAM 2022/2023; INCREASING COMPENSATION TO THE CITY OF FRUITLAND PARK IN THE AMOUNT OF \$5,101.00 FOR TOTAL ANNUAL COMPENSATION OF \$65,063.00; PROVIDING FOR AN EFFECTIVE DATE.



- (d) **Resolution 2022-065 – Urick Street Force Main Extension - Clean Water State Revolving Fund Administrative Services Proposal – Halff Associates Inc.** (city attorney/city manager)

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING ADMINISTRATIVE SERVICES PROPOSAL DATED OCTOBER 11, 2022 FROM HALFF IN AN AMOUNT NOT TO EXCEED \$24,500; AUTHORIZING THE MAYOR TO EXECUTE THE PROPOSAL; PROVIDING FOR AN EFFECTIVE DATE. (Urlick SRF Funding 40535-60655)

- (e) **Resolution 2022-066 – Urick Street Force Main Extension - 60-Day Time Extension - Cathcart Construction Company LLC** (city attorney/city manager)

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING ADMINISTRATIVE SERVICES PROPOSAL DATED OCTOBER 11, 2022 FROM HALFF IN AN AMOUNT NOT TO EXCEED \$24,500; AUTHORIZING THE MAYOR TO EXECUTE THE PROPOSAL; PROVIDING FOR AN EFFECTIVE DATE. (Urlick SRF Funding 40535-60655)

- (f) **Lake County Educational Concurrency Review Committee Appointment** (city clerk)  
Motion to appoint a member to serve on the Lake County Educational Concurrency Review Committee.

- (g) **2023 Proposed Meeting Schedule** (city clerk)  
Motion to approve the proposed 2023 city commission meeting schedule.

**FUNDS REQUIRED:** (See above.)

**ATTACHMENTS:** Draft minutes, proposed resolutions with supporting documents, school concurrency public schools element excerpt, and meeting schedule.

**RECOMMENDATION:** Approve the minutes as submitted, adopt previously cited resolutions; approve the appointment and approve the 2023 meeting schedule.

**ACTION:** **Approve the consent agenda items.**

**FRUITLAND PARK CITY COMMISSION REGULAR  
DRAFT MEETING MINUTES  
October 13, 2022**

A regular meeting of the Fruitland Park City Commission was held at 506 W. Berckman Street, Fruitland Park, Florida 34731 on Thursday, October 13, 2022 at 6:00 p.m.

**Members Present:** Mayor Chris Cheshire, Vice Mayor John L. Gunter Jr., Commissioners Chris Bell, Patrick DeGrave and John Mobilian.

**Also present:** City Manager Gary La Venia; City Attorney Anita Geraci-Carver; City Treasurer Jeannine Racine; Police Chief Erik Luce, Officer Anthony Buehler, Police Department; Mr. Ryan Solstice, LPG Urban Regional Planners Inc. (consultant retained by the city); Deputy Finance Director Gary Bachman; Deputy City Clerk Candice Dennis, and City Clerk Esther B. Coulson.

**1. CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Cheshire called the meeting to order; Chief Luce, gave the invocation and Vice Mayor Gunter led in the pledge of allegiance to the flag.

ACTION: 6:01.53 p.m. No action was taken.

**2. ROLL CALL**

After Mayor Cheshire requested that Ms. Coulson call the roll where a quorum was declared present and announced the decorum for this evening's meeting, he recognized the following agenda changes:

**Item 4.(e) Resolution 2022-057**

To read: *16" water line* and not *6" water line*.

**Items 5.(e) (f) Ordinances 2022-021 and 2022-022 Water and Wastewater Rate Increases**

Effective dates in the body of Ordinances 2022-021 and 2022-022 respectively are corrected to read: *October 27, 2022*.

**Items 5.(g) (h) Ordinances 2022-015 LSCPA and 2022-014 Rezoning - Timbertop Lane**

Addendum – Power-point presentation updated.

**Item 5.(i) Ordinance 2022-019 Lake Ella**

Addendum – conceptual plan (June 8, 2022) and staff's request to continue to a future meeting.

ACTION: 6:03:00 p.m. **By unanimous consent, the city commission accepted the previously cited changes on this evening's agenda.**

**3. Special Presentation - The Rose Plantation Commemorative Historical Marker Recognition Proclamation.**

On behalf of the city commission, Mayor Cheshire read into the record a proclamation recognizing that The Rose Plantation Restaurant has continued to uphold making its mark since the turn of the century; support its vision of becoming something special for the community which has been realized, and extend congratulations on being worthy of receiving the historical marker as a *Commemorative Site of Historical Value*.

ACTION: 6:04:54 p.m. Ms. Sharon Jank, Orange Blossom Chapter, and Mr. David and Ms. Diana Andrews, Rose Plantation Restaurant Owners, accepted the proclamation with much gratitude.

**4. CONSENT AGENDA**

The city commission considered its action to approve the following consent agenda items:

**(a) Approval of Minutes**

**September 22, 2022 regular meeting minutes**

**(b) Resolution 2022-058 LCLC Membership**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPOINTING A MEMBER AND ALTERNATE TO THE LAKE COUNTY LEAGUE OF CITIES, INC.; PROVIDING THE TERM EXPIRATION DATE; AND PROVIDING FOR AN EFFECTIVE DATE.

**(c) Resolution 2022-059 P&Z Board Reappointment**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPOINTING A MEMBER TO THE PLANNING AND ZONING BOARD OF THE CITY OF FRUITLAND PARK; PROVIDING THE TERM EXPIRATION DATE; AND PROVIDING FOR AN EFFECTIVE DATE.

**(d) Resolution 2022-060 P&Z Board Reappointment**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPOINTING A MEMBER TO THE PLANNING AND ZONING BOARD OF THE CITY OF FRUITLAND PARK; PROVIDING THE TERM EXPIRATION DATE; AND PROVIDING FOR AN EFFECTIVE DATE.

**(e) Resolution 2022-057 Lake County CDBG Grant Program FY 2022-23 – Spring Lake Road 6” Water Line – Sub-Recipient**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING THE LAKE COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM SUB-RECIPIENT CONTRACT; AUTHORIZING THE MAYOR TO EXECUTE THE SUB-RECIPIENT

CONTRACT IN THE AMOUNT OF \$152,684 TO FUND ENGINEERING AND CONSTRUCTION OF A NEW 6" WATER LINE ON SPRING LAKE ROAD; PROVIDING FOR AN EFFECTIVE DATE. Amended to read *16" water line and not 6" water line.*

**(f) Resolution 2022-063 Public Works Building Construction Contract Award – GSB Construction & Development Inc.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING THE EJCDC STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR ON THE BASIS OF A STIPULATED PRICE BETWEEN THE CITY OF FRUITLAND PARK AND GSB CONSTRUCTION & DEVELOPMENT, INC. PURSUANT TO INVITATION TO BID NUMBER 2022-01 FOR PUBLIC WORK'S BUILDING IN THE AMOUNT OF \$3,234,000; AUTHORIZING THE MAYOR TO SIGN THE CONTRACT; PROVIDING FOR AN EFFECTIVE DATE.

Later in the meeting and at Mayor Cheshire's request, Mr. Dominic Giannini, GSB Construction & Development Inc., reported on the acquisition of Emmett Sapp Builders Inc. who relocated out of state; indicated that he looks forward to working with the city and distributed a statement of probable cost summary and a preliminary construction schedule for the public safety complex, copies of which are filed with the supplemental papers to the minutes of this meeting.

**(g) Wreaths Across America Program**

Motion to grant John Gella Memorial Unit 219 of the American Legion Auxiliary's request permitting them to hold the tenth annual Wreaths Across America Ceremony at Shiloh Cemetery on Saturday, December 17, 2022.

**ACTION:** 6:08:53 p.m. and 6:09:09 p.m. **On motion of Commissioner Mobilan, seconded by Vice Mayor Gutner and unanimously carried, the city commission approved the consent agenda as previously cited.**

**5. REGULAR AGENDA**

**(a) Resolution 2022-061 P&Z Board Appointment**

The city commission considered its action to appoint a member to the Planning and Zoning Board.

After Mayor Cheshire referred to an application submitted by Mr. Roger Sines, and that he be nominated to serve on the P&Z Board, Ms. Geraci-Carver read into the record proposed Resolution 2022-061, the substance of which is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPOINTING ROGER

SINES AS A MEMBER TO THE CITY OF FRUITLAND PARK PLANNING AND ZONING BOARD; PROVIDING THE TERM EXPIRATION DATE; AND PROVIDING FOR AN EFFECTIVE DATE.

After discussion, Mayor Cheshire addressed the difficulty in finding members to serve on the P&Z Board; suggested holding discussions during the charter review process on its dissolution and consider the option of utilizing a special magistrate. He addressed the need to establish a date for the charter review.

**ACTION: 6:12:51 p.m. A motion was made by Commissioner DeGrave and seconded by Commissioner Mobilian that the city commission adopt Resolution 2022-061 as previously cited with the appointment of**

**Mayor Cheshire called for a roll call vote on the motion and declared it carried unanimously.**

**(b) Resolution 2022-055 FY 2021-22 End of Year Budget Adjustments - Budget Amendment BT2022-008**

Ms. Geraci-Carver read into the record proposed Resolution 2022-055, the substance of which is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE 2021/2022 FISCAL YEAR BUDGET PURSUANT TO SEC. 6.07 OF THE CITY CHARTER TO INCREASE GENERAL FUND BUDGET \$325,504; AND MOVE VARIOUS BUDGET LINE ITEMS TO COVER OVERAGES AND SHORTAGES FOR END OF YEAR REVIEW; AND PROVIDING FOR AN EFFECTIVE DATE.

**ACTION: 6:19:10 p.m. After discussion, a motion was made by Commissioner DeGrave and seconded by Vice Mayor Gunter that the city commission adopt Resolution 2022-055 as previously cited.**

**Mayor Cheshire called for a roll call vote on the motion and declared it carried unanimously.**

**(c) eCivis – Grant Proposal Discussion**

Mr. La Venia addressed the grant proposal submitted by eCivis (supported by the Florida League of Cities Inc.) on its management system and cost allocation software and voiced his reluctance to commit to a five-year contract. He identified the type of grant writing services previously shared by Wright-Pierce Inc., environmental engineering and surveying services currently retained by the city, and the grant writer Fred Fox Enterprise that the city previously retained that could be utilized as an option.

Mr. La Venia explained that the contract with Liberty Partners of Tallahassee Inc. expiring on October 31, 2022 will not be renewed.

ACTION: 6:21:12 p.m. No action was taken.

**(d) Deed Compliance Rule - VCDD 11 Discussion**

Discussion on deed restrictions enforcement and consider the letter as consent to implement The Villages Community Development District #11's request.

ACTION: 6:27:20 a.m. After discussion **and on motion of Commissioner DeGrave, seconded by Commissioner Mobilian and unanimously carried, the city commission approved authorizing the mayor to execute the letter as requested.**

**By unanimous consent, Mayor Cheshire opened the public hearings.**

**PUBLIC HEARING**

**(e) First Reading and Public Hearing – Ordinance 2022-020 Water Rate Increase**

After Ms. Geraci-Carver read into the record the title of the following proposed Ordinance 2022-020, Mayor Cheshire called for interested parties to be heard:

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, FLORIDA AMENDING SECTION 50.30 IN CHAPTER 50 OF THE FRUITLAND PARK CODE OF ORDINANCES TO ADJUST THE WATER UTILITY RATES BASED ON JANUARY 2022 CONSUMER PRICE INDEX; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. (The second reading will be held on October 27, 2022.)

Earlier in the meeting, Mr. La Venia addressed the annual CPI adjustment of seven and a half percent (7.5%) to the water utility rates. He referred to the September 12, 2022 letter from the Town of Lady Lake's Finance Director Ms. Pamela Winegardner regarding the increase by said percentage on the city's sewer interconnect -- Water and Wastewater Treatment Plant Capacity Reservation-Bulk Treatment Agreement with the town) and recommended the increase of same on proposed Water and Wastewater Rate Increase Ordinance 2022-021 under Item 5.(f). (A copy of the letter is filed with the supplemental papers to the minutes of this meeting.)

After discussion, Vice Mayor Gutner suggested reducing the water usage rate of 7.5% to three and a half percent (3.5%) for 2022.

Following further discussion and after Commissioner DeGrave pointed out Mayor Cheshire's suggestion made at the September 22, 2022 meeting directing staff to review at mid-FY 2022-23 the electric tax fund received and identify how the rate could be lowered to a reduced revenue source, **the city commission, by unanimous consent agreed with Commissioner DeGrave's recommendation to including same with the suggestion previously cited by Vice Mayor Gunter.**

**ACTION: 6:30:49 p.m. A motion was made by Vice Mayor Gunter and seconded by Commissioner Mobilian that the city commission approve Ordinance 2022-020 as previously cited.**

After Ms. Tony D. Stainbrook, City of Fruitland Park resident, voiced concerns on the increase in water rates and questioned the exploration of budget billing for individuals on fixed income; thus, the problem in reviewing same for electric by the City of Leesburg, Mayor Cheshire explained the purpose of annual rate increases based on the consumer price index.

In response, Mayor Cheshire suggested that Ms. Stainbrook address her concerns on electric with the City of Leesburg and encouraged her to appear before the commission as it is not managed by the City of Fruitland Park.

**By unanimous consent, Mayor Cheshire closed the public hearing.**

**Mayor Cheshire called for a roll call vote on the motion and declared it carried unanimously.**

**(f) First Reading and Public Hearing – Ordinance 2022-021 Water and Wastewater Rate Increase**

After Ms. Geraci-Carver read into the record the title of the following proposed Ordinance 2022-021, Mayor Cheshire called for interested parties to be heard:

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING SECTION 99.60 IN CHAPTER 50 OF THE FRUITLAND PARK CODE OF ORDINANCES TO ADJUST THE WASTEWATER UTILITY RATES BASED ON JANUARY 2022 CONSUMER PRICE INDEX; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.  
(The second reading will be held on October 27, 2022.)

**ACTION: 6:42:55 p.m. After much discussion, a motion was made by Vice Mayor Gunter and seconded by Commissioner Mobilian that the city commission approve Ordinance 2022-021 as previously cited.**

There being no one from the public and **by unanimous consent, Mayor Cheshire closed the public hearing.**

**Mayor Cheshire called for a roll call vote on the motion and declared it carried unanimously.**

**(g) First Reading and Public Hearing – Ordinance 2022-015 LSCPA – 68.55± Acres Timbertop Lane – Petitioners: Stephanie Bailey Bouis and Patricia Bouis Thompson**

After Ms. Geraci-Carver read into the record the title of the following proposed Ordinance 2022-015, Mayor Cheshire called for interested parties to be heard:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, PROVIDING FOR A LARGE SCALE COMPREHENSIVE PLAN AMENDMENT BY AMENDING THE FUTURE LAND USE PLAN DESIGNATION FROM CITY OF FRUITLAND PARK COMMUNITY MIXED USE TO GENERAL MIXED USE OF 68.55 +/- ACRES OF PROPERTY GENERALLY LOCATED ON TIMBERTOP LANE; DIRECTING THE CITY MANAGER OR DESIGNEE TO TRANSMIT THE AMENDMENT TO THE APPROPRIATE GOVERNMENTAL AGENCIES PURSUANT TO CHAPTER 163, FLORIDA STATUTES; AUTHORIZING THE CITY MANAGER TO AMEND SAID COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY, CONFLICTS AND SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE. (Continued from the July 28 and August 25, 2022 meetings.)

Ms. Tara L. Tedrow, Attorney, Lowndes, Drosdick, Doster, Kantor & Reed, PA, on behalf of the applicant, addressed her absences from and the city commission's actions on the continuance of the subject item and Item 5.(h). at the July 28 and August 25, 2022 regular meetings; anticipated soliciting, receiving and incorporating any specific feedbacks prior to the second reading, and gave a power-point presentation describing the proposed Miller Park mixed use planned unit development (PUD) rezoning together with the project's layout. (Copies of the presentation and layout are filed with the supplemental papers to the minutes of this meeting.)

After discussion, Mses. Geraci-Carver and Tedrow agreed to include the provisions relating to the two swimming pools, fountains, tot-lot and dog park and finalize the MDA prior to the second reading.



**ACTION: 6:44:29 p.m. A motion was made by Commissioner DeGrave and seconded by Commissioner Mobilian that the city commission approve Ordinance 2022-015 as previously cited.**

Ms. Jean Basteck, City of Fruitland Park Unincorporated Area, recognized the developments planned in the area and suggested providing native plantings to be beneficial to the environment and wildlife to which Mayor Cheshire pointed out the planting standards (Florida-Friendly low water use plant list) outlined in the land development code to which Ms. Tedrow agreed to review revise same in the MDA.

**By unanimous consent, Mayor Cheshire closed the public hearing.**

**Mayor Cheshire called for a roll call vote on the motion and declared it carried unanimously.**

**(h) First Reading and Public Hearing - Ordinance 2022-014 Rezoning 68.55± Acres Timbertop Lane — Petitioners: Stephanie Bailey Bouis and Patricia Bouis Thompson**

After Ms. Geraci-Carver read into the record the title of the following proposed Ordinance 2022-014, Mayor Cheshire called for interested parties to be heard:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, REZONING 68.55 ± ACRES OF PROPERTY FROM CITY OF FRUITLAND PARK PUD TO CITY OF FRUITLAND PARK MIXED USE PLANNED UNIT DEVELOPMENT (MUPUD) WITHIN THE CITY LIMITS OF FRUITLAND PARK; APPROVING AN AMENDED MASTER DEVELOPMENT AGREEMENT FOR THE PROPERTY; DIRECTING THE CITY MANAGER TO AMEND THE ZONING MAP OF THE CITY OF FRUITLAND PARK; PROVIDING FOR SEVERABILITY AND SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE. (Continued from the July 28 and August 25, 2022 meetings.)

**ACTION: 7:10:51 p.m. After discussion, a motion was made by Commissioner Bell and seconded by Vice Mayor Gunter that the city commission approve Ordinance 2022-014 as previously cited.**

Later in the meeting, and by unanimous consent, Mayor Cheshire closed the public hearing.

**Mayor Cheshire called for a roll call vote on the motion and declared it carried unanimously.**

**QUASI-JUDICIAL PUBLIC HEARING**

(i) **Second Reading and Quasi-Judicial Public Hearing – Ordinance 2022-019 PUD – Lake Ella Road and East of Rolling Acres Road – Petitioner: Daryl M. Carver, Trustee of Lake Eller Road Land Trust**

The city commission considered its action to enact Ordinance 2022-019.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, REZONING 158 +/- ACRES OF PROPERTY FROM PLANNED UNIT DEVELOPMENT TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) WITHIN THE CITY LIMITS OF FRUITLAND PARK; GENERALLY LOCATED SOUTH OF LAKE ELLA ROAD AND EAST OF ROLLING ACRES ROAD; APPROVING A MASTER DEVELOPMENT AGREEMENT; DIRECTING THE CITY MANAGER OR DESIGNEE TO AMEND THE ZONING MAP OF THE CITY OF FRUITLAND PARK; PROVIDING FOR SEVERABILITY, CONFLICTS AND SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE. (The first reading was held on September 22, 2022.)

**ACTION:** 7:12:46 p.m. After discussion and **on motion of Commissioner Mobilian, seconded by Commissioner Bell and unanimously carried, the city commission continued its action on Ordinance 2022-019 as previously cited the November 10, 2022 meeting at the city attorney's request for more information.**

**END OF QUASI—JUDICIAL PUBLIC HEARING**

**END OF PUBLIC HEARING**

6. (a) **City Manager**

i. **Economic Development Status Update**

Mr. La Venia had nothing to report on economic development.

**ACTION:** 7:14:47 p.m. No action was taken.

ii. **Code Enforcement Matters**

Mr. La Venia referred to a recent meeting he had with Commissioner DeGrave and Ms. Lori Davis, Code Enforcement Officer, with respect to visible advertising on the side of unused vehicles parked away from their respective buildings but in close proximity to the US Hwy 27/441 corridor and the enforcement of same under subsection 163.040, prohibited signs under the current land development code (LDC).

After extensive discussions, Ms. Geraci-Carver addressed her plan to review the existing language under the LDC to determine making the regulation and enforcement of same more stringent.

ACTION: 7:14:50 p.m. No action was taken.

**(b) City Attorney**

**i. City of Fruitland Park v. State of Florida Department of Management Services**

Ms. Geraci-Carver did not address the State of Florida Department of Management Services case.

ACTION: 7:23:30 p.m. No action was taken.

**ii. Michael and Laurie Fewless v. City of Fruitland Park**

Ms. Geraci-Carver did not address the Michael and Laurie Fewless case.

ACTION: 7:23:30 p.m. No action was taken.

**iii. U.S. Bank National Association v. Robert Moore and City of Fruitland Park, Lake County Case No. 2022-CA-00845**

Ms. Geraci-Carver reported the city is working diligently with the insurance company on the U.S. Bank National Association v. Robert Moore and City of Fruitland Park, Lake County Case No. 2022-CA-00845.

ACTION: 7:23:30 p.m. No action was taken.

**iv. Wayne Goodridge and Tammy Goodridge v. City of Fruitland Park, Lake County Case No. 2022-CA-1628**

Ms. Geraci-Carver reported that she and Mr. La have been working with the attorneys with respect to the Wayne Goodridge and Tammy Goodridge v. City of Fruitland Park, Lake County Case.

ACTION: 7:23:53 p.m. No action was taken.

**v. Fruitland Park Official City Code**

With reference to the official city code, Ms. Geraci-Carver noted, as a result of previous telephone conferences with Municode (part of CivicPlus®), that there were still unresolved issues from their February 17, 2016 memorandum. She pointed out her October 9, 2022 email to staff regarding the Municode Process requesting that they review various provisions in the code in order to respond back to Municode who would then compile a manuscript and incorporate the recent ordinances that were enacted for city commission adoption. (Copies of the respective documents are filed with the supplemental papers to the minutes of this meeting.)

ACTION: 7:24:09 p.m. No action was taken.

**7. UNFINISHED BUSINESS**

There was no unfinished business to come before the city commission at this time.

ACTION: 7:25:01 p.m. No action was taken.

**8. PUBLIC COMMENTS**

After Ms. Stainbrook inquired on the status of the city commission's action on regarding the *Wreaths Across America* Program and Commissioner DeGrave's response on the city commission's approval of same earlier in this evening's meeting under Consent Agenda Item 4.(g)., she thanked the city commission for its annual support of same.

Ms. Stainbrook referred to the Google Earth's aerial photograph provided to Mayor Cheshire; questioned the possible alternative route for the exit on Mirror Lake Manor Phase 2 (Seminole Avenue, Palm Avenue, Dixie Avenue and US Hwy 27/441), and gave reasons, recognizing the residential construction in the area, for such access and reduce the noise which she requested ought to be reviewed. (A copy of the map is filed with the supplemental papers to the minutes of this meeting.)

In response to Mayor Cheshire's inquiry, Mr. La Venia addressed staff's plan to meet with the developer and the engineer on the construction issues and erect a gate in the area.

Later in the meeting and after Ms. Stainbrook referred to the construction and voiced concerns on the lack of roadway maintenance for Lemon Street with the potential for traffic speeding and safety problems going towards Mirror Lake. She

Mr. La Venia concurred in the affirmative to Mayor Cheshire's suggestion to review the installation of a gate for access in the area as referenced by Ms. Stainbrook and Mr. Dicus addressed the issue of large oak trees growing on Lemon Street which will subsequently be removed.

Earlier in the meeting and after Mr. Michael Brunea, City of Fruitland Park resident, addressed his preference for the neighborhood on Mirror Lake to remain as a "little jewel", Mayor Cheshire addressed the elected officials' awareness of the traffic problems and voiced concurrence with Chief Luce' remarks on the community's positive feedback relayed to the police officers on the difference that was made by law enforcement.

ACTION: 7:25:03 p.m. No action was taken.

**9. COMMISSIONERS' COMMENTS**

**(a) Commissioner Mobilian**

Commissioner Mobilian stated that he had nothing to report at this time.

ACTION: 7:34:26 p.m. No action was taken.

**(b) Commissioner DeGrave - Absence**

Commissioner DeGrave explained that he will not be present for the October 27, 2022 regular meeting as he will be away.

ACTION: 7:34:54 p.m. No action was taken.

**(c) Commissioner Bell - Presence**

Commissioner Bell had nothing to report at this time; however, he expressed pleasure to be back.

ACTION: 7:35:00 p.m. No action was taken.

**(d) Vice Mayor Gunter, Jr.**

Vice Mayor Gunter stated that he had nothing to report at this time.

ACTION: 7:35:14 p.m. No action was taken.

**10. MAYOR'S COMMENTS**

**Dates To Remember**

Mayor Cheshire announced the following events:

- October 14, 2022 Historical Marker Commemorative Unveiling and Installation, The Rose Plantation Restaurant, 200 Rose Avenue, Fruitland Park, Florida 34731 at 10:00 a.m.;
- October 14, 2022 Lake County League of Cities (LCLC) Congressman Daniel Webster *Washington Update and Election of 2023 Officers*, Mount Dora Golf Course, 1100 South Highland Street, Mount Dora, Florida 32757 at 12:00 p.m.;
- October 14, 2022, *The Nightmare Before Christmas* Movie Night, Community Center, 205 W Berckman Street, Fruitland Park, Florida 34731 at 7:30 p.m.;
- October 20, 2022, *Meet the Author and Book Signing*, at 1:30 p.m. and *HalloweenTown Family Movie Night*, Library 604 W Berckman Street, Fruitland Park, Florida 34731 at 4:30 p.m.;
- October 21, 2022, Comedy Night, 205 W Berckman Street, Fruitland Park, Florida 34731 at 5:00 p.m.;
- October 22, 2022, Trick or Trot – 5k Family Fun Run, 205 W Berckman Street, Fruitland Park, Florida 34731 at 8:00 a.m.;
- October 26, 2022, Lake~Sumter Metropolitan Planning Organization (LS~MPO) Governing Board Meeting, MPO Board Room Suite 175, 1300 Citizens Boulevard, Leesburg, Florida 34748 at 2:00 p.m.;
- October 27, 2022, City Commission workshop at 5:00 p.m.;
- October 27, 2022 City Commission regular at 6:00 p.m.;
- October 28, 2022, Halloween Party and Costume Contest, 205 West Berckman Street, Fruitland Park, Florida 34731 at 5:00 p.m.
- November 11, 2022, Veterans' Day, City Hall Closed;

October 13, 2022 regular meeting

- November 10 ,2022, City Commission workshop at 5:00 p.m.;
- November 10, 2022, City Commission regular at 6:00 p.m.;
- November 24, 2022, Thanksgiving – City Hall Closed;
- November 24, 2022, Day After Thanksgiving – City Hall Closed;
- November 25, 2022, City Commission regular at 6:00 p.m. – Cancelled

ACTION: 7:35:17 p.m. No action was taken.

**11. ADJOURNMENT**

The meeting adjourned at 7:37 p.m.

The minutes were approved at the November 10, 2022 regular meeting.

Signed  
\_\_\_\_\_  
Esther B. Coulson, City Clerk, MMC

Signed  
\_\_\_\_\_  
Chris Cheshire, Mayor

**FRUITLAND PARK CITY COMMISSION WORKSHOP  
DRAFT MEETING MINUTES  
August 8, 2022**

A workshop meeting of the Fruitland Park City Commission was held at 506 W. Berckman Street, Fruitland Park, Florida 34731 on Monday, August 8, 2022 at 6:00 p.m.

**Members Present:** Mayor Chris Cheshire, Vice Mayor John L. Gunter Jr., Commissioners Chris Bell (joined in by Zoom video teleconference call), and Patrick DeGrave

**Also Present:** City Manager Gary La Venia; City Treasurer Jeannine Racine; City Attorney Anita Geraci-Carver; Police Chief Erik Luce; Lieutenant “Tim” Timothy Ross; Sergeants Keith Flanary and David Cox; Detective Sergeant Brian Hilberer; Detective Brad Heidt, and Officers Anthony Buehler and Gavin Heffler; Public Works Director Robb Dicus; Parks and Recreation Director Michelle Yoder; Library Director JoAnn Glendinning; Human Resources Director Betty McHale; Community Development Department, Mr. Michael “Mike” Rankin, LPG Urban Regional Planners Inc. (consultant retained by the city) and Interim Community Development Director; and City Clerk Esther B. Coulson.

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

After Mayor Cheshire called the meeting to order, Chief Luce led in the Pledge of Allegiance to the flag.

**2. ROLL CALL**

Mayor Cheshire requested that Ms. Coulson call the roll and a quorum was present.

**By unanimous consent, the city commission accepted Mayor Cheshire’s suggestion on the order of business for this evening’s agenda.**

**3. FY 2022-23 PROPOSED BUDGET**

Ms. McHale gave a power-point presentation on the compensation plan and market study, a copy of which is filed with the supplemental papers to the minutes of this meeting. She made the following recommendations:

1. A one-time market adjustment pay increase for all directors and police chief;
2. Establish guidelines for managers to follow before giving merit pay increases, and
3. Help with dependent cost for health insurance.

Upon Commissioner DeGrave’s suggestion and **by unanimous consent, the city commission accepted the human resources director’s recommendations on the compensation plan and market study and directed staff, during the annual budget process, to review same (as recurring costs in the general fund) with supporting data.**

After much discussion and upon Commissioner DeGrave’s suggestion and the city manager’s recommendation, **the city commission, by unanimous consent, directed staff to draft, for consideration at the next meeting, an ordinance to create a fund transfer**

**balance policy from the general fund unrestricted reserves to the paving fund; an emergency (repairs) fund, and proposed transfer to the repairing and repaving roadways in the paving fund and public works building construction, and fund balance at 25 percent budgeted expenses in the general fund.**

Commissioner DeGrave reiterated the need for an annual road schedule utilizing PASERWARE – a computerized pavement management data system to evaluate, assess and rate roadway conditions for local governments -- and work with the engineers (retained by the city); recognized immediate funds required for non-Community Redevelopment Agency roadways at end of life; \$2.7 million supplanted as dedicated sinking fund for roadways lagging 10-15 years behind, and acknowledged Ms. Racine's response in the affirmative on the ability to transfer FY 2022-23 budgeted money into the general fund with contingency, pay for the (road) study and the 30 percent increase in insurance benefit.

Subsequent to further discussion, Mayor Cheshire referred to the June 30, 2022 auditor's report from McDirmit Davis, auditors retained by the city, to adopt a formal fund balance/net position policy to establish optimal reserve levels and provide management direction while preparing the annual budgets.

Following much discussion and upon Commissioner DeGrave's suggestion, the city commission, **by unanimous consent, recommended that the city treasurer to contact McDirmit Davis Certified Public Accountants to determine the optimal reserve level and directed staff to work with the engineers retained by the city to develop an annual road paving schedule.**

After extensive discussion, Ms. Racine reviewed the spreadsheet showing changes since the proposed FY 2022-23 budget workshop books were distributed; copies of which are filed with the supplemental papers to the minutes of this meeting.

Ms. Racine gave a power-point presentation on the following:

- **Executive** - After Commissioner DeGrave referred to the Municode, code of ordinances update and its online platform and the status of completion, Ms. Geraci-Carver recommended adopting the code in its current form and referred to the January 5, 2022 telephone call with Mr. Roger Merriam, Municode Attorney where she explained that all his questions were answered and the inquiries on the ordinances and resolutions were resolved.

After discussion and upon **Commissioner DeGrave's suggestion, the city commission by unanimous consent, agreed to consider the city's code of ordinances and land development code for adoption at the September 22, 2022 regular meeting.**

- **General Government** – Following some discussion and in response to Commissioner DeGrave's reference to an email received earlier this day from Mr. Carl Yauk, The Villages of Fruitland Park (Pine Ridge), regarding the status of body cameras, Chief



Luce concurred with the suggestion to recommend including same as a priority. (A copy of the email is filed with the supplemental papers to the minutes of this meeting.)

Subsequent to extensive discussions and **by unanimous consent, the city commission agreed to allocate \$59,000 in the FY 2022-23 budget earmarked for body cameras for the police department.**

- **Law Enforcement** – After much discussion and **by unanimous consent, the city commission agreed to remove the budgetary item for annual physicals at \$250.00 per police officer from the FY 2022-23 budget.**

At Chief Luce's request, Ms. Racine agreed to correct the equipment purchases to read: *two Glock 21 .45 CalS&W MP 15 long rifle* instead of *one* which does not change the cost in the budget line item.

Chief Luce introduced new Police Officer Gavin Heffler from the City of Umatilla to the city commission who welcomed him to the city.

- **Library** - At Ms. Glendinning's request, Ms. Racine agreed to remove from equipment purchases *replace outside fans for \$900.00 and Caster for \$260.00.*
- **Recreation Revenues** – After discussion and **by unanimous consent, the city commission authorized the city attorney to draft a resolution dissolving and moving the recreation fund to the general fund for consideration at a future city commission meeting.**
- **FY 2022-23 CRA Budget** – Ms. Racine addressed her plan to revise the CRA Capital Improvements and Equipment under redevelopment sidewalk project to reflect *sidewalk from library to College Avenue* and not *library to community center.*

With respect to city hall, Mr. La Venia addressed the need for the city hall roof to be painted (estimated at \$15,000 to \$20,000) and replace the dais in the chambers.

- **Capital Improvement Program Expenses**  
With respect to the historical marker for the windmill, Ms. Glendinning noted the problem in locating its historical information; referred to a citizen's April 14, 1955 complaint before the Fruitland Park Town Council on the danger to children climbing on the windmill, and addressed the State of Florida Division of Historical Resources (DOHR) Marker Program's requirement for newspaper articles referencing same. She mentioned her plan to visit the City of Leesburg's Library for further research.

Ms. Glendinning addressed her intent to erect signs on Fountain Street and Rose Avenue directing the public to the library.

After Commissioner Bell's inquiry on the status of the old street signs, Mr. La Venia indicated that a letter-writing campaign from the community would be required to

submit to DOHR for historical purposes; otherwise, it would be borne at the city's expense. He addressed the plan to continue the effort.

- **Water Department**

Following Vice Mayor Gunter's inquiry on the water tank towers' maintenance, Mr. Dicus proposed installing illuminated lighting on the logo portion of the elevated tower to which Mr. La Venia suggested pricing out same.

**4. OTHER BUSINESS**

**By unanimous consent, the city commission determined not to meet on August 9, 2022 for the budget workshop**

**5. ADJOURNMENT**

**The meeting adjourned at 8:51 p.m.**

The minutes were approved at the November 10, 2022 regular meeting.

Signed \_\_\_\_\_  
Esther B. Coulson, City Clerk, MMC

Signed \_\_\_\_\_  
Chris Cheshire, Mayor

**RESOLUTION 2022-056**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, RENEWING AND ADOPTING A DEFERRED COMPENSATION PLAN FOR THE EMPLOYEES OF THE CITY OF FRUITLAND PARK, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Fruitland Park has employees rendering valuable services; and

**WHEREAS**, the establishment and renewal of a deferred compensation plan for such employees serves the interests of the employer by enabling it to provide a reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

**WHEREAS**, the City of Fruitland Park has determined that the establishment of a deferred compensation plan to be administered by ICMA d/b/a Mission Square Retirement serves the above objectives; and

**WHEREAS**, the City of Fruitland Park desires that its deferred compensation plan be administered by ICMA d/b/a Mission Square Retirement, and that some or all of the funds held be invested in VantageTrust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans; and

**WHEREAS**, the City Commission of the City of Fruitland Park has home rule authority to take any action in the furtherance of the interest of the City that is not in conflict with general law, and taking action authorized in this resolution is not in conflict.

**THEREFORE BE IT RESOLVED** by the City Commission of the City of Fruitland Park, Florida, as follows:

1. The above recitals are true and correct and, by this reference, are hereby incorporated into and made an integral part of this resolution.
2. They City of Fruitland Park hereby adopts for continuation for the period of October 1, 2022 through September 30, 2023 the deferred compensation plan (“the Plan”) in the form of the ICMA d/b/a Mission Square Retirement, referred to and **attached as Appendix A.**
3. The City of Fruitland Park hereby adopts the 457 Governmental Deferred Compensation Plan and Declaration of Trust of VantageTrust **attached hereto as Appendix B.**
4. The assets of the plan shall be held in trust, with the City of Fruitland Park serving as trustee, for the exclusive benefit of the plan participants and their beneficiaries, and the assets shall not be diverted for any other purpose.

5. The City of Fruitland Park hereby agrees to serve as trustee under the plan.
6. The city treasurer shall be the coordinator for this program and shall receive necessary reports, notices, etc. from Mission Square Retirement and/or VantageTrust; shall cast, on behalf of the City of Fruitland Park, any required votes under the program and is authorized to execute all necessary agreements with Mission Square Retirement incidental to the administration of the plan. administrative duties to carry out the plan may be assigned to the appropriate departments.
7. The assets of the plan shall be held in trust with the City of Fruitland Park serving as trustee for the exclusive benefit of the plan participants and their beneficiaries and the assets shall not be diverted to any other purpose.
8. This resolution shall be effective immediately upon adoption.

PASSED AND RESOLVED this 10<sup>th</sup> day of November 2022, by the City Commission of the City of Fruitland Park, Florida.

SEAL

CITY COMMISSION OF THE CITY OF  
FRUITLAND PARK, FLORIDA

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CHRIS CHESHIRE, MAYOR

ATTEST:

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ESTHER COULSON, CITY CLERK, MMC

|                       |       |        |       |       |       |              |       |          |
|-----------------------|-------|--------|-------|-------|-------|--------------|-------|----------|
| Mayor Cheshire        | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Vice Mayor Gunter     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Bell     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner DeGrave  | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Mobilian | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |

Approved as to form:

---

Anita Geraci-Carver, City Attorney

**APPENDIX A**

THE PLAN

**APPENDIX B**

457 Governmental Deferred Compensation Plan and Declaration of Trust of  
VantageTrust

ICMA RETIREMENT CORPORATION

# GOVERNMENTAL MONEY PURCHASE PLAN & TRUST



# ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN & TRUST

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# ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN & TRUST

## I. PURPOSE

The Employer hereby adopts this Plan and Trust to provide funds for its Employees' retirement, and to provide funds for their Beneficiaries in the event of death. The benefits provided in this Plan shall be paid from the Trust. The Plan and the Trust forming a part hereof are adopted and shall be maintained for the exclusive benefit of eligible Employees and their Beneficiaries. Except as provided in Sections 4.13 and 14.03, no part of the corpus or income of the Trust shall revert to the Employer or be used for or diverted to purposes other than the exclusive benefit of Participants and their Beneficiaries.

## II. DEFINITIONS

- 2.01 Account.** A separate record which shall be established and maintained under the Trust for each Participant, and which shall include all Participant subaccounts created pursuant to Article IV, plus any Participant Loan Account created pursuant to Section 13.03. Each subaccount created pursuant to Article IV shall include any earnings of the Trust and adjustments for withdrawals, and realized and unrealized gains and losses allocable thereto. The term "Account" may also refer to any of such separate subaccounts.
- 2.02 Accounting Date.** Each day that the New York Stock Exchange is open for trading, and such other dates as may be determined by the Plan Administrator, as provided in Section 6.06 for valuing the Trust's assets.
- 2.03 Adoption Agreement.** The separate agreement executed by the Employer through which the Employer adopts the Plan and elects among the various alternatives provided thereunder, and which upon execution, becomes an integral part of the Plan.
- 2.04 Beneficiary.** The person or persons (including a trust) designated by the Participant who shall receive any benefits payable hereunder in the event of the Participant's death. The designation of such Beneficiary shall be in writing to the Plan Administrator. A Participant may designate primary and contingent Beneficiaries. Where no designated Beneficiary survives the Participant or no Beneficiary is otherwise designated by the Participant, the Participant's Beneficiary shall be his/her surviving spouse or, if none, his/her estate.
- Notwithstanding the foregoing, the Beneficiary designation is subject to the requirements of Article XII unless the Employer elects otherwise in the Adoption Agreement. Notwithstanding the foregoing, where elected by the Employer in the Adoption Agreement (the "QJSA Election"), the Beneficiary designation is subject to the requirements of Article XVII. Notwithstanding the foregoing, to the extent permitted by the Employer, a Beneficiary receiving required minimum distributions in accordance with Article X and not in a benefit form elected under Article XI or XII, may designate a Beneficiary to receive the required minimum distributions that would have otherwise been payable to the initial Beneficiary but for his or her death.
- 2.05 Break in Service.** A Period of Severance of at least twelve (12) consecutive months. In the case of an individual who is absent from work for maternity or paternity reasons, the twelve (12) consecutive month period beginning on the first anniversary of the first date of such absence shall not constitute a Break in Service. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of the birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement.
- 2.06 Code.** The Internal Revenue Code of 1986, as amended from time to time.
- 2.07 Covered Employment Classification.** The group or groups of Employees eligible to make and/or have contributions to this Plan made on their behalf, as specified by the Employer in the Adoption Agreement.

**2.08 Disability.** A physical or mental impairment which is of such permanence and degree that, as determined by the Employer, a Participant is unable because of such impairment to perform any substantial gainful activity for which he/she is suited by virtue of his/her experience, training, or education and that has lasted, or can be expected to last, for a continuous period of not less than twelve (12) months, or can be expected to result in death. The permanence and degree of such impairment shall be supported by medical evidence. If the Employer maintains a long-term disability plan, the definition of Disability shall be the same as the definition of disability in the long-term disability plan.

**2.09 Earnings.**

(a) **General Rule.** Earnings, which form the basis for computing Employer Contributions, are all of each Participant's W-2 earnings which are actually paid to the Participant during the Plan Year, plus any contributions made pursuant to a salary reduction agreement which are not includible in the gross income of the Employee under section 125, 402(e)(3), 402(h)(1)(B), 403(b), 414(h)(2), 457(b), or, effective January 1, 2001, 132(f)(4) of the Code. Earnings shall include any pre-tax contributions (excluding direct employer contributions) to an integral part trust of the Employer providing retiree health care benefits. Earnings shall also include any other earnings as defined and elected by the Employer in the Adoption Agreement. Unless the Employer elects otherwise in the Adoption Agreement, Earnings shall exclude overtime compensation and bonuses.

(b) **Limitation on Earnings.** For any Plan Year beginning after December 31, 2001, the annual Earnings of each Participant taken into account in determining allocations shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual Earnings means Earnings during the Plan Year or such other consecutive 12-month period over which Earnings is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Earnings for the determination period that begins with or within such calendar year.

If a determination period consists of fewer than twelve (12) months, the annual Earnings limit is an amount equal to the otherwise applicable annual Earnings limit multiplied by the fraction, the numerator of which is the number of months in the short Plan Year and the denominator of which is twelve (12).

If Earnings for any prior determination period are taken into account in determining a Participant's allocations for the current Plan Year, the Earnings for such prior year are subject to the applicable annual Earnings limit in effect for that prior year.

(c) **Limitations for Governmental Plans.** In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Code), the dollar limitation shall not apply to the extent the Earnings which are allowed to be taken into account under the Plan would be reduced below the amount which was allowed to be taken into account under the Plan as in effect on July 1, 1993, as adjusted for increases in the cost-of-living in accordance with section 401(a)(17)(B) of the Code. For purposes of this Section, an eligible participant is an individual who first became a Participant in the Plan during a Plan Year beginning before the first Plan Year beginning after December 31, 1993.

(d) **Earnings Paid After Severance from Employment.** Earnings for purposes of allocations under the Plan shall not include amounts paid after a Participant's severance from Employment with the Employer except as provided in this Section 2.09(d).

(1) **Leave Cashouts.** Earnings shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (i) the Participant would have been able to use the leave if employment had continued, and (ii) such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.

(2) **Regular Pay.** Earnings shall include regular pay after severance from employment if:

- (a) The payment is included in the Participant's W-2 earnings;
- (b) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and
- (c) Such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.

Notwithstanding anything to the contrary in this subsection (b), unless the Employer has specifically elected to include overtime compensation and bonuses in Earnings, Earnings shall exclude overtime compensation and bonuses paid after severance from employment.

(3) **Effective Date.** This Section 2.09(d) is effective for Plan Years beginning on or after January 1, 2009. For Plan Years beginning before January 1, 2009, the amounts specified in subsections (a) and (b) must be paid within 2½ months after severance from employment with the Employer maintaining the Plan.

- 2.10 Effective Date.** The first day of the Plan Year during which the Employer adopts the Plan, unless the Employer elects in the Adoption Agreement an alternate date as the Effective Date of the Plan.
- 2.11 Employee.** Any individual who has applied for and been hired in an employment position and who is employed by the Employer as a common law employee; provided, however, that Employee shall not include any individual who is not so recorded on the payroll records of the Employer, including any such person who is subsequently reclassified by a court of law or regulatory body as a common law employee of the Employer. For purposes of clarification only and not to imply that the preceding sentence would otherwise cover such person, the term Employee does not include any individual who performs services for the Employer as an independent contractor, or under any other non-employee classification.
- 2.12 Employer.** The unit of state or local government or an agency or instrumentality of one (1) or more states or local governments that executes the Adoption Agreement.
- 2.13 Hour of Service.** Each hour for which an Employee is paid or entitled to payment for the performance of duties for the Employer.
- 2.14 Nonforfeitable Interest.** The nonforfeitable interest of the Participant or his/her Beneficiary (whichever is applicable) is that percentage of his/her Employer Contribution Account balance, which has vested pursuant to Article VII. A Participant shall, at all times, have a one hundred percent (100%) Nonforfeitable Interest in his/her Participant Contribution, Rollover, and Voluntary Contribution Accounts.
- 2.15 Normal Retirement Age.** The age which the Employer specifies in the Adoption Agreement. If the Employer enforces a mandatory retirement age, the Normal Retirement Age is the lesser of that mandatory age or the age specified in the Adoption Agreement.
- 2.16 Participant.** An Employee or former Employee for whom contributions have been made under the Plan and who has not yet received all of the payments of benefits to which he/she is entitled under the Plan. A Participant is treated as benefiting under the Plan for any Plan Year during which the participant received or is deemed to receive an allocation in accordance with Treas. Reg. section 1.410(b)-3(a).

- 2.17 Period of Service.** For purposes of determining an Employee's initial or continued eligibility to participate in the Plan or the Nonforfeitable Interest in the Participant's Account balance derived from Employer Contributions, an Employee will receive credit for the aggregate of all time period(s) commencing with the Employee's first day of employment or reemployment and ending on the date a Break in Service begins. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee will also receive credit for any Period of Severance of less than twelve (12) consecutive months. Fractional periods of a year will be expressed in terms of days.
- Notwithstanding anything to the contrary herein, if the Plan is an amendment and restatement of a plan that previously calculated service under the hours of service method, service shall be credited in a manner that is at least as generous as that provided under Treas. Regs. section 1.410(a)-7(g).
- 2.18 Period of Severance.** A continuous period of time during which the Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the twelve (12) month anniversary of the date on which the Employee was otherwise first absent from service.
- 2.19 Plan.** This Plan, as established by the Employer, including any elected provisions pursuant to the Adoption Agreement.
- 2.20 Plan Administrator.** The person(s) or entity named to carry out certain nondiscretionary administrative functions under the Plan, as hereinafter described, which is the ICMA Retirement Corporation or any successor Plan Administrator. Unless otherwise provided in the Plan, the Plan Administrator shall act at the direction of the Employer and shall be fully protected in acting on such direction.
- 2.21 Plan Year.** The twelve (12) consecutive month period designated by the Employer in the Adoption Agreement.
- 2.22 Trust.** The Trust created under Article VI of the Plan which shall consist of all of the assets of the Plan derived from Employer and Participant contributions under the Plan, plus any income and gains thereon, less any losses, expenses and distributions to Participants and Beneficiaries.

### III. ELIGIBILITY

- 3.01 Service.** Except as provided in Sections 3.02 and 3.03 of the Plan, an Employee within the Covered Employment Classification who has completed a twelve (12) month Period of Service shall be eligible to participate in the Plan at the beginning of the payroll period next commencing thereafter. The Employer may elect in the Adoption Agreement to waive or reduce the twelve (12) month Period of Service.
- If the Employer maintains the plan of a predecessor employer, service with such employer shall be treated as Service for the Employer.
- 3.02 Age.** The Employer may designate a minimum age requirement, not to exceed age twenty-one (21), for participation. Such age, if any, shall be declared in the Adoption Agreement.
- 3.03 Return to Covered Employment Classification.** In the event a Participant is no longer a member of Covered Employment Classification and becomes ineligible to make contributions and/or have contributions made on his/her behalf, such Employee will become eligible for contributions immediately upon returning to a Covered Employment Classification. If such Participant incurs a Break in Service, eligibility will be determined under the Break in Service rules of the Plan.

In the event an Employee who is not a member of a Covered Employment Classification becomes a member, such Employee will be eligible to participate immediately if such Employee has satisfied the minimum age and service requirements and would have otherwise previously become a Participant.

- 3.04 Service Before a Break in Service.** All Periods of Service with the Employer are counted toward eligibility, including Periods of Service before a Break in Service.

#### IV. CONTRIBUTIONS

- 4.01 Employer Contributions.** For each Plan Year, the Employer will contribute to the Trust an amount as specified in the Adoption Agreement. The Employer's full contribution for any Plan Year shall be due and paid not later than thirty (30) working days after the close of the Plan Year. Each Participant will share in Employer Contributions for the period beginning on the date the Participant commences participation under the Plan and ending on the date on which such Employee severs employment with the Employer or is no longer a member of a Covered Employment Classification, and such contributions shall be accounted for separately in his Employer Contribution Account. Notwithstanding anything to the contrary herein, if so elected by the Employer in the Adoption Agreement, an Employee shall be required to make contributions as provided pursuant to Section 4.03 or 4.04 in order to be eligible for Employer Contributions to be made on his/her behalf to the Plan.
- 4.02 Forfeitures.** All amounts forfeited by terminated Participants, pursuant to Section 7.06, shall be used no later than the end of the next Plan Year. Forfeitures will be used to reduce dollar for dollar Employer Contributions otherwise required under the Plan. Forfeitures may first be used to pay the reasonable administrative expenses of the Plan, with any remainder being applied to reduce Employer Contributions.
- 4.03 Mandatory Participant Contributions.** If the Employer so elects in the Adoption Agreement, each eligible Employee shall make contributions at a rate prescribed by the Employer or at any of a range of specified rates, as set forth by the Employer in the Adoption Agreement, as a requirement for his/her participation (1) in the Plan or (2) in this portion of the Plan. Once an eligible Employee becomes a Participant and makes an election hereunder, he/she shall not thereafter have the right to discontinue or vary the rate of such Mandatory Participant Contributions. Such contributions shall be accounted for separately in the Participant Contribution Account. Such Account shall be at all times nonforfeitable by the Participant.

If the Employer so elects in the Adoption Agreement, the Mandatory Participant Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). Any contribution picked-up under this Section shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

To constitute a Pick-Up Contribution, (1) the Employer must specify in a contemporaneous written document by a person duly authorized by the Employer that the contributions are being paid by the Employer in lieu of contributions by the Employee, and (2) the Employee must not be given the option of choosing to receive the contributed amounts directly instead of having them paid by the Employer to the Plan.

- 4.04 Employer Matching Contributions of Voluntary Participant Contributions.** If the Employer so elects in the Adoption Agreement, Employer Matching Contributions shall be made on behalf of an eligible Employee for a Plan Year only if the Employee agrees to make Voluntary Participant Contributions for that Plan Year. The rate of Employer Contributions shall, to the extent specified in the Adoption Agreement, be based upon the rate at which Voluntary Participant Contributions are made for that Plan Year. Employer Matching Contributions shall be accounted for separately in the Employer Contribution Account.
- 4.05 Voluntary Participant Contributions.** If the Employer so elects in the Adoption Agreement, an eligible Employee may make after-tax voluntary (unmatched) contributions under the Plan for any Plan Year in any amount up to twenty-five percent (25%) of his/her Earnings for such Plan Year. Matched and unmatched contributions shall be accounted for separately in the Participant's Voluntary Contribution Account. Such Account shall be at all times nonforfeitable by the Participant.



- 4.06 Deductible Employee Contributions.** The Plan will not accept deductible employee contributions which are made for a taxable year beginning after December 31, 1986. Contributions made prior to that date will be maintained in a Deductible Employee Contribution Account. The Account will share in the gains and losses under the Plan in the same manner as described in Section 6.06 of the Plan. Such Account shall be at all times nonforfeitable by the Participant. No part of the deductible voluntary contribution account will be used to purchase life insurance.
- 4.07 Final Pay Contributions.** If the Employer so elects in the Adoption Agreement, eligible Participants shall be eligible to make or receive Final Pay Contributions under this Plan in accordance with Article XVIII. This election may be made even if the Employer does not elect to make contributions under Section 4.01.
- 4.08 Accrued Leave Contributions.** If the Employer so elects in the Adoption Agreement, eligible Participants shall be eligible to make or receive Accrued Leave Contributions under this Plan in accordance with Article XIX. This election may be made even if the Employer does not elect to make contributions under Section 4.01.
- 4.09 Military Service Contributions.** Notwithstanding any provision of the Plan to the contrary, effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code.

Effective December 12, 1994, if the Employer has elected in the Adoption Agreement to make loans available to Participants, loan repayments shall be suspended under the Plan as permitted under section 414(u)(4) of the Code.

**4.10 Accrual of Additional Benefits for Qualified Military Service.**

- (a) **Death Benefits with Respect to Qualified Military Service.** In the case of a Participant who dies on or after January 1, 2007, while performing qualified military service (as defined in Code section 414(u)) with respect to the Employer, his/her Beneficiary shall have a Nonforfeitable Interest in the Participant's entire Employer Contribution Account to the extent that he/she would have had had the Participant resumed and then terminated employment on account of death.
- (b) **Benefit Accruals with Respect to Differential Wage Payments.** If the Employer so elects in the Adoption Agreement, effective as elected by the Employer but no earlier than January 1, 2009, Plan contributions shall be made based on differential wage payments (as such term is defined in Code section 3401(h)(2)). Solely for purposes of applying the limits of Code section 415, differential wage payments shall be treated as compensation.
- (c) **Benefit Accruals with Respect to Qualified Military Service.** Notwithstanding any provision of the Plan to the contrary, effective as elected by the Employer but no earlier than January 1, 2007, if the Employer so elects in the Adoption Agreement, Participants who die or become Disabled while performing qualified military service (as defined in Code section 414(u)) with respect to the Employer shall receive Plan contributions as permitted under Code section 414(u)(9).

- 4.11 Changes in Participant Election.** A Participant may elect to change his/her rate of Voluntary Participant Contributions at any time or during an election period as designated by the Employer. A Participant may discontinue such contributions at any time or during an election period as designated by the Employer.

#### 4.12 Portability of Benefits.

- (a) Unless otherwise elected by the Employer in the Adoption Agreement, the Plan will accept Participant (which shall include, for purposes of this subsection, an Employee within the Covered Employment Classification whether or not he/she has satisfied the minimum age and service requirements of Article III) rollover contributions and/or direct rollovers of distributions (including after-tax contributions) made after December 31, 2001 that are eligible for rollover in accordance with Section 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), or 457(e)(16) of the Code, from all of the following types of plans:
- (1) A qualified plan described in Section 401(a) or 403(a) of the Code;
  - (2) An annuity contract described in Section 403(b) of the Code;
  - (3) An eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state; and
  - (4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Code (including SEPs, and SIMPLE IRAs after two years of participating in the SIMPLE IRA).
- (b) Notwithstanding the foregoing, the Employer may reject the rollover contribution if it determines, in its discretion, that the form and nature of the distribution from the other plan does not satisfy the applicable requirements under the Code to make the transfer or rollover a nontaxable transaction to the Participant;
- (c) For indirect rollover contributions, the amount distributed from such plan must be rolled over to this Plan no later than the sixtieth (60th) day after the distribution was made from the plan, unless otherwise waived by the IRS pursuant to Section 402(c)(3) of the Code.
- (d) The amount transferred shall be deposited in the Trust and shall be credited to a Rollover Account. Such Account shall be one hundred percent (100%) vested in the Participant.
- (e) The Plan will accept accumulated deductible employee contributions as defined in section 72(o)(5) of the Code that were distributed from a qualified retirement plan and transferred (rolled over) pursuant to section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3) of the Code. Notwithstanding the above, this transferred (rolled over) amount shall be deposited to the Trust and shall be credited to a Deductible Employee Contributions Account. Such Account shall be one-hundred percent (100%) vested in the Participant.
- (f) A Participant may, upon approval by the Employer and the Plan Administrator, transfer his/her interest in another plan maintained by the Employer that is qualified under section 401(a) of the Code to this Plan, provided the transfer is effected through a one-time irrevocable written election made by the Participant. The amount transferred shall be deposited in the Trust and shall be credited to sources that maintain the same attributes as the plan from which they are transferred. Such transfer shall not reduce the accrued years or service credited to the Participant for purposes of vesting or eligibility for any Plan benefits or features.

**4.13 Return of Employer Contributions.** Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the date of contribution.

## V. LIMITATION ON ALLOCATIONS

### 5.01 Participants Only in This Plan.

- (a) If the Participant does not participate in, and has never participated in another qualified plan or a welfare benefit fund, as defined in section 419(e) of the Code, maintained by the Employer, or an individual medical account, as defined by section 415(l)(2) of the Code, maintained by the Employer, which provides an Annual Addition, the amount of Annual Additions which may be credited to the Participant's Account for any Limitation Year will not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan. If the Employer Contribution that would otherwise be contributed or allocated to the Participant's Account would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amount contributed or allocated will be reduced so that the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.
- (b) Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant on the basis of a reasonable estimation of the Participant's Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.
- (c) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year will be determined on the basis of the Participant's actual Compensation for the Limitation Year.

### 5.02 Participants in Another Defined Contribution Plan.

- (a) Unless the Employer provides other limitations in the Adoption Agreement, this Section applies if, in addition to this Plan, the Participant is covered under another qualified defined contribution plan maintained by the Employer, or a welfare benefit fund, as defined in section 419(e) of the Code, maintained by the Employer, or an individual medical account, as defined by section 415(l)(2) of the Code, maintained by the Employer, which provides an Annual Addition, during any Limitation Year. The Annual Additions which may be credited to a Participant's Account under this Plan for any such Limitation Year will not exceed the Maximum Permissible Amount reduced by the Annual Additions credited to a Participant's Account under the other plans and welfare benefit funds for the same Limitation Year. If the Annual Additions with respect to the Participant under other defined contribution plans and welfare benefit funds maintained by the Employer are less than the Maximum Permissible Amount and the Employer contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and funds for the Limitation Year will equal the Maximum Permissible Amount. If the Annual Additions with respect to the Participant under such other defined contribution plans and welfare benefit funds in the aggregate are equal to or greater than the Maximum Permissible Amount, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.
- (b) Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant in the manner described in Section 5.01(b).
- (c) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year will be determined on the basis of the Participant's actual Compensation for the Limitation Year.

- (d) If, pursuant to Subsection (c) or as a result of the allocation of forfeitures, a Participant's Annual Additions under this Plan and such other plans would result in an Excess Amount for a Limitation Year, the Excess Amount will be deemed to consist of the Annual Additions last allocated, except that Annual Additions attributable to a welfare benefit fund or individual medical account will be deemed to have been allocated first regardless of the actual allocation date.
- (e) If an Excess Amount was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the Excess Amount attributed to this Plan will be the product of,
  - (1) The total Excess Amount allocated as of such date, multiplied by
  - (2) The ratio of (i) the Annual Additions allocated to the Participant for the Limitation Year as of such date under this Plan to (ii) the total Annual Additions allocated to the Participant for the Limitation Year as of such date under this and all the other qualified prototype defined contribution plans.

**5.03 Definitions.** For the purposes of this Article, the following definitions shall apply:

- (a) Annual Additions. The sum of the following amounts credited to a Participant's account for the Limitation Year:
  - (1) Employer Contributions (including contributions "picked up" by the Employer under Section 4.03);
  - (2) Forfeitures;
  - (3) Employee contributions (including after-tax Voluntary Contributions under Section 4.05 and Mandatory Participant Contributions under Section 4.03 not "picked up" by the Employer); and
  - (4) Allocations under a simplified employee pension. Amounts allocated, after March 31, 1984, to an individual medical account, as defined in section 415(l)(2) of the Code, which is part of a pension or annuity plan maintained by the Employer, are treated as Annual Additions to a defined contribution plan.
  - (5) Notwithstanding the above, the term Annual Additions does not include the following:
    - (a) Restorative Payments. Annual Additions for purposes of Code section 415 shall not include restorative payments. For this purpose, restorative payments are payments made to restore losses to a plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments to a defined contribution plan are restorative payments only if the payments are made in order to restore some or all of the plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the plan). This includes payments to a plan made pursuant to a court-approved settlement to restore losses to a qualified defined contribution plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the plan). Payments made to a plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that give rise to Annual Additions.

(b) Other Amounts. Annual Additions for purposes of Code section 415 shall not include (i) the direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (ii) rollover contributions (as described in Code sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (iii) repayments of loans made to a Participant from the Plan; (iv) repayments of amounts described in Code section 411(a)(7)(B) (in accordance with Code sections 411(a)(7)(C)) and 411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code section 414(d)) as described in Code section 415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments; (v) Employee Contributions to a qualified cost of living arrangement within the meaning of Code section 415(k)(2)(B); (vi) catch-up contributions made in accordance with section 414(v) and §1.414(v)-1 and (vii) excess deferrals that are distributed in accordance with §1.402(g)-1(e)(2) or (3).

(c) Date of Employer Contributions. Notwithstanding anything in the Plan to the contrary, Employer Contributions are treated as credited to a Participant's account for a particular Limitation Year only if the contributions are actually made to the plan no later than the 15<sup>th</sup> day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends.

(b) Compensation. Participant's wages, salaries, fees for professional services, and other amounts received (without regard to whether an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer, to the extent that the amounts are includible in gross income (or to the extent amounts would have been received and includible in gross income but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)). These amounts include, but are not limited to, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan as described in Treas. Reg. section 1.62-2(c).

(1) Notwithstanding the foregoing, Compensation does not include:

(i) Contributions (other than elective contributions described in Code section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) made by the Employer to a plan of deferred compensation (including a simplified employee pension described in Code section 408(k) or a simple retirement account described in Code section 408(p), and whether or not qualified) to the extent that the contributions are not includible in the gross income of the Participant for the taxable year in which contributed. In addition, any distributions from a plan of deferred compensation (whether or not qualified) are not considered as Compensation for Code section 415 purposes, regardless of whether such amounts are includible in the gross income of the Participant when distributed; and

(ii) Other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant and are not salary reduction amounts that are described in Code section 125).

(iii) Other items of remuneration that are similar to the items listed in subparagraph (i) or (ii) of this subsection (b).

(2) Compensation Paid After Severance or Deemed Severance from Employment. Compensation shall be adjusted as set forth herein for the following types of compensation paid after a Participant's severance from employment (as determined under section 415 of the Code and the regulations thereunder) with the Employer. Any payment that is not described in subsection (i), (ii), (iii), or (iv) of this Section is not considered Compensation within the meaning of section 415 of the Code if paid after severance from employment with the Employer.

(i) Regular Pay.

- (A) Compensation shall include regular pay after severance of employment if the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments;
- (B) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and
- (C) Such amounts are paid:
  - 1. for Limitation Years beginning before January 1, 2009, within 2½ months after severance from employment with the Employer maintaining the Plan; and
  - 2. for Limitation Years beginning on or after January 1, 2009, by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.
- (D) The date January 1, 2009 in subsections (b)(2)(i)(C)(1) and (2) of this Section shall be substituted for an earlier effective date if provided in Article II of the Adoption Agreement but no earlier than July 1, 2007.

(ii) Leave Cashouts.

- (A) For Limitation Years beginning before January 1, 2009, Compensation shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (I) the Participant would have been able to use the leave if employment had continued, (II) such amounts are paid within 2½ months after severance from employment with the Employer maintaining the Plan, and (III) such amounts would be included in Compensation if the individual had continued to perform services for the Employer.
- (B) For Limitation Years beginning on or after January 1, 2009, Compensation shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (I) the Participant would have been able to use the leave if employment had continued, (II) such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment, and (III) such amounts would be included in Compensation if the individual had continued to perform services for the Employer.
- (C) The date January 1, 2009 in subsections (b)(2)(ii)(A) and (B) of this Section shall be substituted for an earlier effective date if provided in Article II of the Adoption Agreement but no earlier than July 1, 2007.

(iii) Salary Continuation Payments for Military Service Participants.

- (A) Compensation includes payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code section 414(u)(1)) to the extent:
  - 1. Those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service; and

2. Those payments would be included in Compensation if the individual had continued to perform services for the Employer rather than entering qualified military service.

(B) Notwithstanding the foregoing, Compensation does not include distributions from this Plan to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code section 414(u)(1)).

(iv) Salary Continuation Payments for Disabled Participants.

(A) Compensation includes amounts paid to a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)) to the extent:

1. Salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period or the Participant was not a highly compensated employee (as defined in Code section 414(q)) immediately before becoming disabled.
2. Those amounts would be included in Compensation if the Participant had continued to perform services for the Employer.

(B) Notwithstanding the foregoing, Compensation does not include distributions from this Plan to a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)).

For purposes of applying the limitations of this Article, Compensation for a Limitation Year is the Compensation actually paid or made available during such year. Compensation for a Limitation Year shall not include amounts earned but not paid during the Limitation Year solely because of the timing of pay periods and pay dates.

(c) Defined Contribution Dollar Limitation: \$40,000, as adjusted for increases in the cost of-living in accordance with section 415(d) of the Code.

(d) Employer: The Employer that adopts this Plan.

(e) Excess Amount: The excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount. Any Excess Amount shall include allocable income. The income allocable to an Excess Amount is equal to the sum of allocable gain or loss for the Plan Year and the allocable gain or loss for the period between the end of the Plan Year and the date of distribution (the gap period). The Plan may use any reasonable method for computing the income allocable to an Excess Amount, provided that the method is used consistently for all Participants and for all corrective distributions under the Plan for the Plan Year, and is used by the Plan for allocating income to Participants' Accounts.

(f) Limitation Year: A calendar year, or the twelve (12) consecutive month period elected by the Employer in section IX. 2 of the Adoption Agreement. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made. The Limitation Year may only be changed by Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year and the maximum permissible amount shall be prorated for the resulting short Limitation Year.

(g) **Maximum Permissible Amount:** The maximum Annual Addition that may be contributed or allocated to a Participant's Account under the Plan for any Limitation Year shall not exceed the lesser of:

- (1) The Defined Contribution Dollar Limitation, or
- (2) One hundred percent (100%) of the Participant's Compensation for the Limitation Year.

The compensation limit referred to in (2) shall not apply to any contribution for medical benefits after separation from service (within the meaning of section 401(h) or section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different twelve (12) consecutive month period, the Maximum Permissible Amount will not exceed the Defined Contribution Dollar Limitation multiplied by the following fraction:

**Number of months in the short Limitation Year**

12

#### 5.04 **Aggregation and Disaggregation of Plans.**

(a) **Generally.** For purposes of applying the limitations of Code section 415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the Employer (or a "predecessor employer") under which the Participant receives Annual Additions are treated as one defined contribution plan. The "Employer" means the Employer that adopts this Plan and any other entity which the Employer determines, based on a reasonable, good faith interpretation of existing law in accordance with Notice 89-23, 1989-1 C.B. 654, as modified by Notice 96-64, 1996-2 C.B. 229, should be aggregated for purposes of applying the limitations of Code section 415. For purposes of this Section:

- (1) A former employer is a "predecessor employer" with respect to a Participant if the Employer maintains a plan under which the Participant had accrued a benefit while performing services for the former employer, but only if that benefit is provided under the plan maintained by the Employer. For this purpose, the formerly affiliated plan rules in Treas. Reg. section 1.415(f)-1(b)(2) apply as if the Employer and predecessor employer constituted a single employer under the rules described in Treas. Reg. section 1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Treas. Reg. section 1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the predecessor employer relationship, such as a transfer of benefits or plan sponsorship.
- (2) With respect to an Employer, a former entity that antedates the Employer is a "predecessor employer" with respect to a Participant if, under the facts and circumstances, the Employer constitutes a continuation of all or a portion of the trade or business of the former entity.

(b) **Midyear Aggregation.** Two or more defined contribution plans that are not required to be aggregated pursuant to Code section 415(f) and the Treasury Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code section 415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no Annual Additions are credited to the Participant's account after the date on which the plans are required to be aggregated.

**5.05 Effective Date.** Except as otherwise provided in Section 5.03(b)(2), this Article shall apply to limitation years beginning on or after July 1, 2007. The Employer may elect a delayed effective date for this Article in Section IX. 3 of the Adoption Agreement, however, such effective date must apply to limitation years that begin on or after the date that is 90 days after the close of the first legislative session of the legislative body with authority to amend the plan that begins on or after July 1, 2007.



## VI. TRUST AND INVESTMENT OF ACCOUNTS

- 6.01 Trust.** A Trust is hereby created to hold all of the assets of the Plan for the exclusive benefit of Participants and Beneficiaries, except that expenses and taxes may be paid from the Trust as provided in Section 6.03. The trustee shall be the Employer or such other person which agrees to act in that capacity hereunder.
- 6.02 Investment Powers.** The trustee or the Plan Administrator, acting as agent for the trustee, shall have the powers listed in this Section with respect to investment of Trust assets, except to the extent that the investment of Trust assets is controlled by Participants, pursuant to Sections 6.05 and 13.03.
- (a) To invest and reinvest the Trust without distinction between principal and income in common or preferred stocks, shares of regulated investment companies and other mutual funds, bonds, notes, debentures, mortgages, certificates of deposit, contracts with insurance companies including but not limited to insurance, individual or group annuity, deposit administration, guaranteed interest contracts, and deposits at reasonable rates of interest at banking institutions including but not limited to savings accounts and certificates of deposit. Assets of the Trust may be invested in securities that involve a higher degree of risk than investments that have demonstrated their investment performance over an extended period of time.
  - (b) To invest and reinvest all or any part of the assets of the Trust in any common, collective or commingled trust fund that is maintained by a bank or other institution and that is available to Employee plans qualified under section 401 of the Code, or any successor provisions thereto, and during the period of time that an investment through any such medium shall exist, to the extent of participation of the Plan, the declaration of trust of such common, collective, or commingled trust fund shall constitute a part of this Plan.
  - (c) To invest and reinvest all or any part of the assets of the Trust in any group annuity, deposit administration or guaranteed interest contract issued by an insurance company or other financial institution on a commingled or collective basis with the assets of any other plan or trust qualified under section 401(a) of the Code or any other plan described in section 401(a)(24) of the Code, and such contract may be held or issued in the name of the Plan Administrator, or such custodian as the Plan Administrator may appoint, as agent and nominee for the Employer. During the period that an investment through any such contract shall exist, to the extent of participation of the Plan, the terms and conditions of such contract shall constitute a part of the Plan.
  - (d) To hold cash awaiting investment and to keep such portion of the Trust in cash or cash balances, without liability for interest, in such amounts as may from time to time be deemed to be reasonable and necessary to meet obligations under the Plan or otherwise to be in the best interests of the Plan.
  - (e) To hold, to authorize the holding of, and to register any investment to the Trust in the name of the Plan, the Employer, or any nominee or agent of any of the foregoing, including the Plan Administrator, or in bearer form, to deposit or arrange for the deposit of securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by any other person, and to organize corporations or trusts under the laws of any jurisdiction for the purpose of acquiring or holding title to any property for the Trust, all with or without the addition of words or other action to indicate that property is held in a fiduciary or representative capacity but the books and records of the Plan shall at all times show that all such investments are part of the Trust.
  - (f) Upon such terms as may be deemed advisable by the Employer or the Plan Administrator, as the case may be, for the protection of the interests of the Plan or for the preservation of the value of an investment, to exercise and enforce by suit for legal or equitable remedies or by other action, or to waive any right or claim on behalf of the Plan or any default in any obligation owing to the Plan, to renew, extend the time for payment of, agree to a reduction in the rate of interest on, or agree to any other modification or change in the terms of any obligation owing to the Plan, to settle, compromise, adjust, or submit to arbitration any

claim or right in favor of or against the Plan, to exercise and enforce any and all rights of foreclosure, bid for property in foreclosure, and take a deed in lieu of foreclosure with or without paying consideration therefor, to commence or defend suits or other legal proceedings whenever any interest of the Plan requires it, and to represent the Plan in all suits or legal proceedings in any court of law or equity or before any body or tribunal.

- (g) To employ suitable consultants, depositories, agents, and legal counsel on behalf of the Plan.
- (h) To open and maintain any bank account or accounts in the name of the Plan, the Employer, or any nominee or agent of the foregoing, including the Plan Administrator, in any bank or banks.
- (i) To do any and all other acts that may be deemed necessary to carry out any of the powers set forth herein.

- 6.03 Taxes and Expenses.** All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect to the Trust, or the income thereof, and all commissions or acquisitions or dispositions of securities and similar expenses of investment and reinvestment of the Trust, shall be paid from the Trust. Such reasonable compensation of the Plan Administrator, as may be agreed upon from time to time by the Employer and the Plan Administrator, and reimbursement for reasonable expenses incurred by the Plan Administrator in performance of its duties hereunder (including but not limited to fees for legal, accounting, investment and custodial services) shall also be paid from the Trust. However, no person who is a fiduciary within the meaning of section 3(21)(A) of ERISA and regulations promulgated thereunder, and who receives full-time pay from the Employer may receive compensation from the Trust, except for expenses properly and actually incurred.
- 6.04 Payment of Benefits.** The payment of benefits from the Trust in accordance with the terms of the Plan may be made by the Plan Administrator, or by any custodian or other person so authorized by the Employer to make such disbursement. Benefits under this Plan shall be paid only if the Plan Administrator, custodian or other person, or the Employer if directing such person, decides in his/her discretion that the applicant is entitled to them. The Plan Administrator, custodian or other person shall not be liable with respect to any distribution of Trust assets made at the direction of the Employer.
- 6.05 Investment Funds.** In accordance with uniform and nondiscriminatory rules established by the Employer and the Plan Administrator, the Participant may direct his/her Accounts to be invested in one (1) or more investment funds available under the Plan; provided, however, that the Participant's investment directions shall not violate any investment restrictions established by the Employer and shall not include any investment in collectibles, as defined in section 408(m) of the Code.
- 6.06 Valuation of Accounts.** As of each Accounting Date, the Plan assets held in each investment fund offered shall be valued at fair market value and the investment income and gains or losses for each fund shall be determined. Such investment income and gains or losses shall be allocated proportionately among all Account balances on a fund-by-fund basis. The allocation shall be in the proportion that each such Account balance as of the immediately preceding Accounting Date bears to the total of all such Account balances, as of that Accounting Date. For purposes of this Article, all Account balances include the Account balances of all Participants and Beneficiaries.
- 6.07 Participant Loan Accounts.** Participant Loan Accounts shall be invested in accordance with Section 13.03 of the Plan. Such Accounts shall not share in any investment income and gains or losses of the investment funds described in Section 6.05.
- 6.08 Deemed IRAs.** If deemed IRAs are available pursuant to section 408(q) of the Code, the assets of such deemed IRAs may be commingled with the Plan assets for investment purposes but, if held in the same trust, the trustee shall maintain a separate account for each deemed IRA.

## VII. VESTING

**7.01 Vesting Schedule.** The portion of a Participant's Account attributable to Mandatory Participant Contributions and Voluntary Participant Contributions, and the earnings thereon, shall be at all times nonforfeitable by the Participant. A Participant shall have a Nonforfeitable Interest in the percentage of his/her Employer Contribution Account established under Section 4.01, 4.04, 18.02(a) and 19.02(a) determined pursuant to the schedule elected by the Employer in the Adoption Agreement.

**7.02 Crediting Periods of Service.** Except as provided in Section 7.03, all of an Employee's Periods of Service with the Employer are counted to determine the nonforfeitable percentage in the Employee's Account balance derived from Employer Contributions. If the Employer maintains the plan of a predecessor employer, service with such employer will be treated as service for the Employer.

For purposes of determining years of service and Breaks in Service for the purposes of computing a Participant's nonforfeitable right to the Account balance derived from Employer Contributions, the twelve (12) consecutive month period will commence on the date the Employee first performs an Hour of Service and each subsequent twelve (12) consecutive month period will commence on the anniversary of such date.

**7.03 Service After Break in Service.** In the case of a Participant who has a Break in Service of at least five (5) years, all Periods of Service after such Breaks in Service will be disregarded for the purpose of determining the nonforfeitable percentage of the Employer-derived Account balance that accrued before such Break, but both pre-Break and post-Break service will count for the purposes of vesting the Employer-derived Account balance that accrues after such Break. Both Accounts will share in the earnings and losses of the fund.

In the case of a Participant who does not have a Break in Service of at least five (5) years, both the pre-Break and post-Break service will count in vesting both the pre-Break and post-Break Employer-derived Account balance.

In the case of a Participant who does not have any nonforfeitable right to the Account balance derived from Employer Contributions, years of service before a period of consecutive one (1) year Breaks in Service will not be taken into account in computing eligibility service if the number of consecutive one (1) year Breaks in Service in such period equals or exceeds the greater of five (5) or the aggregate number of years of service. Such aggregate number of years of service will not include any years of service disregarded under the preceding sentence by reason of prior Breaks in Service.

If a Participant's years of service are disregarded pursuant to the preceding paragraph, such Participant will be treated as a new Employee for eligibility purposes. If a Participant's years of service may not be disregarded pursuant to the preceding paragraph, such Participant shall continue to participate in the Plan, or, if terminated, shall participate immediately upon reemployment.

**7.04 Vesting Upon Normal Retirement Age.** Notwithstanding Section 7.01 of the Plan, a Participant shall have a Nonforfeitable Interest in his/her entire Employer Contribution Account, to the extent that the balance of such Account has not previously been forfeited pursuant to Section 7.06 of the Plan, if he/she is employed on or after his/her Normal Retirement Age.

**7.05 Vesting Upon Death or Disability.** Notwithstanding Section 7.01 of the Plan, in the event of Disability or death, a Participant or his/her Beneficiary shall have a Nonforfeitable Interest in his/her entire Employer Contribution Account, to the extent that the balance of such Account has not previously been forfeited pursuant to Section 7.06 of the Plan.

- 7.06 Forfeitures.** Except as provided in Sections 7.04 and 7.05 of the Plan or as otherwise provided in this Section 7.06, a Participant who separates from service prior to obtaining full vesting shall forfeit that percentage of his/her Employer Contribution Account balance which has not vested as of the date such Participant incurs a Break in Service of five (5) consecutive years or, if earlier, the date such Participant receives, or is deemed under the provisions of Section 9.04 to have received, distribution of the entire Nonforfeitable Interest in his/her Employer Contribution Account. No forfeiture will occur solely as a result of a Participant's withdrawal of Employee Contributions. Forfeitures shall be allocated in the manner described in Section 4.02.
- 7.07 Reinstatement of Forfeitures.** If the Participant returns to the employment of the Employer before incurring a Break in Service of five (5) consecutive years, any amounts forfeited pursuant to Section 7.06 shall be reinstated to the Participant's Employer Contribution Account on the date of repayment by the Participant of the amount distributed to such Participant from his/her Employer Contribution Account; provided, however, that if such Participant forfeited his/her Account balance by reason of a deemed distribution, pursuant to Section 9.04, such amounts shall be automatically restored upon the reemployment of such Participant. Such repayment must be made before the earlier of five (5) years after the first date on which the Participant is subsequently reemployed by the Employer, or the date the Participant incurs a Break in Service of five (5) consecutive years.

### VIII. BENEFITS CLAIM

- 8.01 Claim of Benefits.** A Participant or Beneficiary shall notify the Plan Administrator in writing of a claim of benefits under the Plan. The Plan Administrator shall take such steps as may be necessary to facilitate the payment of such benefits to the Participant or Beneficiary.
- 8.02 Appeal Procedure.** If any claim for benefits is initially denied by the Plan Administrator, the claimant shall file the appeal with the Employer, whose decision shall be final, to the extent provided by Section 15.07.

### IX. COMMENCEMENT OF BENEFITS

- 9.01 Normal and Elective Commencement of Benefits.** A Participant who retires, becomes Disabled or incurs a severance from employment for any other reason may elect by written notice to the Plan Administrator to have his or her vested Account balance benefits commence on any date, provided that such distribution complies with Section 9.02. Such election must be made in writing during the one-hundred eighty (180) day period ending on the date as of which benefit payments are to commence. A Participant's election shall be revocable and may be amended by the Participant.

The failure of a Participant to consent to a distribution while a benefit is immediately distributable, within the meaning of section 9.02 of the Plan, shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this section.

- 9.02 Restrictions on Immediate Distributions.** Notwithstanding anything to the contrary contained in Section 9.01 of the Plan, if the value of a Participant's vested Account balance is at least \$1,000, and the Account balance is immediately distributable, the Participant must consent to any distribution of such Account balance. The Participant's consent shall be obtained in writing during the one-hundred eighty (180) day period (ninety (90) day period for Plan Years beginning before January 1, 2007) ending on the date as of which benefit payments are to commence. No consent shall be required, however, to the extent that a distribution is required to satisfy section 401(a)(9) or 415 of the Code.

The Plan Administrator shall notify the Participant of the right to defer any distribution until the Participant's Account balance is no longer immediately distributable. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available

under the Plan in a manner that would satisfy section 417(a)(3) of the Code, and shall be provided no less than thirty (30) and no more than one-hundred eighty (180) days (ninety (90) days for Plan Years beginning before January 1, 2007) before the date as of which benefit payments are to commence. However, distribution may commence less than thirty (30) days after the notice described in the preceding sentence is given, provided (i) the distribution is one to which sections 401(a)(11) and 417 of the Code do not apply or, if the QJSA Election is made by the Employer in the Adoption Agreement, the waiver requirements of Section 17.05(a) are met; (ii) the Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and (iii) the Participant, after receiving the notice, affirmatively elects a distribution.

In addition, upon termination of this Plan, if the Plan does not offer an annuity option (purchased from a commercial provider) and if the Employer does not maintain another 401(a) defined contribution plan, the Participant's Account balance will, without the Participant's consent, be distributed to the Participant in a lump sum. However, if the Employer maintains another 401(a) defined contribution plan, the Participant's Account will be transferred, without the Participant's consent, to the other plan if the Participant does not consent to an immediate distribution.

An Account balance is immediately distributable if any part of the Account balance could be distributed to the Participant (or surviving spouse) before the Participant attains or would have attained (if not deceased) the later of Normal Retirement Age or age sixty-two (62).

For purposes of determining the applicability of the foregoing consent requirements to distributions made before the first day of the first plan year beginning after December 31, 1988, the Participant's vested Account balance shall not include amounts attributable to accumulated deductible employee contributions within the meaning of section 72(o)(5)(B) of the Code.

### **9.03 Transfer to Another Plan.**

- (a) If a Participant becomes eligible to participate in another plan maintained by the Employer that is qualified under section 401(a) of the Code, the Plan Administrator shall, at the written election of such Participant, transfer all or part of such Participant's Account to such plan, provided the Plan Administrator for such plan certifies to the Plan Administrator that its plan provides for the acceptance of such a transfer. Such transfers shall include those transfers of the nonforfeitable interest of a Participant's Account made for the purchase of service credit in defined benefit plans maintained by the Employer. For purposes of this Plan, any such transfer shall not be considered a distribution to the Participant subject to spousal consent as described in Section 9.10.
- (b) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.
- (c) Definitions. For the purposes of Subsection (b), the following definitions shall apply:
  - (1) Eligible Rollover Distribution. Any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:
    - (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more;

- (ii) any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and
- (iii) the portion of any other distribution(s) that is not includible in gross income.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or, for distributions occurring after December 31, 2007, to a Roth IRA described in § 408A of the Code, or to a qualified defined contribution plan described in section 401(a) or a qualified annuity contract described in section 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) Eligible Retirement Plan.

- (i) an individual retirement account described in section 408(a) of the Code or an individual retirement annuity described in section 408(b) of the Code (collectively, an “IRA”);
- (ii) an annuity plan described in section 403(a) of the Code;
- (iii) an annuity contract described in section 403(b) of the Code;
- (iv) an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan;
- (v) a qualified plan described in section 401(a) of the Code, that accepts the Distributee’s Eligible Rollover Distribution; or
- (vi) for distributions occurring after December 31, 2007, a Roth IRA described in Code section 408A. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code.

(3) Distributee. Participant; in addition, the Participant’s surviving spouse and the spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are Distributees with regard to the interest of the spouse or former spouse. For distributions after December 31, 2006 (unless a later date is elected by the Employer pursuant to subsection (d)(1) below, but no later than Plan Years beginning after December 31, 2009), a distributee includes the Employee’s or former Employee’s nonspouse designated Beneficiary, in which case, the distribution can only be transferred to a traditional or Roth IRA established on behalf of the nonspouse designated Beneficiary for the purpose of receiving the distribution.

(4) Direct Rollover. A payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

(d) Rollover by a Non-Spouse Designated Beneficiary.

- (1) Unless otherwise elected by the Employer in the Adoption Agreement, for distributions beginning after December 31, 2006 but on or before December 31, 2009, a non-spouse Beneficiary who qualifies as a “designated beneficiary” under Code section 401(a)(9)(E) may establish an individual retirement plan

that will be treated as an inherited IRA pursuant to the provisions of Code section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.

- (2) Notwithstanding paragraph (1), for Plan Years beginning after December 31, 2009, a non-spouse Beneficiary who qualifies as a "designated beneficiary" under Code section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an inherited IRA pursuant to the provisions of Code section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.
- (3) Notwithstanding anything herein to the contrary, a death benefit distribution shall not be eligible for transfer to an inherited IRA to the extent such distribution is a required minimum distribution under Code section 401(a)(9).

- (e) Rollover by a Surviving Spouse Distributee. If any distribution attributable to a Participant is paid to the Participant's surviving spouse, section 402(c) applies to the distribution in the same manner as if the spouse were the Participant. However, a qualified plan (as defined in Treasury Regulation section 1.402(c)-2 Q&A-2) is not treated as an eligible retirement plan with respect to a surviving spouse. Only an individual retirement plan is treated as an eligible retirement plan with respect to an eligible rollover distribution to a surviving spouse.

**9.04 De Minimis Accounts.** Notwithstanding the foregoing provisions of this Article, if a Participant terminates service, and the value of his/her Nonforfeitable Interest in his/her Account is less than \$1,000, the Participant's benefit shall be paid as soon as practicable to the Participant in a single lump sum distribution. If the value of the Participant's Account is at least \$1,000 but not more than the dollar limit under section 411(a)(11) (A) of the Code, the Participant may elect to receive his/her Nonforfeitable Interest in his/her Account. Such distribution shall be made as soon as practicable following the request, in a lump sum.

For purposes of this Section, if a Participant's Nonforfeitable Interest in his/her Account is zero, the Participant shall be deemed to have received a distribution of such Nonforfeitable Interest in his/her Account.

**9.05 Withdrawal of Voluntary Contributions.** A Participant may upon written request withdraw a part of or the full amount of his/her Voluntary Contribution Account. Such withdrawals may be made at any time, provided that no more than two (2) such withdrawals may be made during any calendar year. No forfeiture will occur solely as the result of any such withdrawal.

**9.06 Withdrawal of Deductible Employee Contributions.** A Participant may upon written request withdraw a part of or the full amount of his/her Deductible Employee Contribution Account. Such withdrawals may be made at any time, provided that no more than two (2) such withdrawals may be made during any calendar year. No forfeiture will occur solely as the result of any such withdrawal.

**9.07 In-Service Distribution from Rollover Account.** Where elected by the Employer in the Adoption Agreement, a Participant that has a separate account attributable to rollover contributions to the Plan, may at any time elect to receive a distribution of all or any portion of the amount held in the Rollover Account.

**9.08 In-Service Distributions.**

- (a) Unless otherwise elected by the Employer in the Adoption Agreement, a Participant who has reached age 70½ regardless of his Nonforfeitable Interest in his/her entire Employer Contribution Account, shall, upon written request, receive a distribution of a part of or the full amount of the balance in any or all of his vested Accounts.

- (b) If elected by the Employer, in-service distributions may be made beginning after June 1, 2009 to a Participant who has attained Normal Retirement Age or an alternate age (after Normal Retirement Age) elected by the Employer, and who has not yet incurred a severance from employment.
- (c) A Participant's benefit under the Plan may not be distributed before the Participant attains age 62 or, if earlier, the Participant separates from employment (or has a deemed separation), attains Normal Retirement Age under the plan, dies, or becomes disabled, or upon termination of the Plan.
- (d) Distributions under Section 9.08 may be requested at any time, provided that no more than two (2) such distributions may be made during any calendar year.

**9.09 Latest Commencement of Benefits.** Notwithstanding anything to the contrary in this Article, benefits shall begin no later than the Participant's Required Beginning Date, as defined under Section 10.05, or as otherwise provided in Section 10.04.

**9.10 Spousal Consent.** Notwithstanding the foregoing, if the Employer elected the QJSA Election in the Adoption Agreement, a married Participant must first obtain his or her spouse's notarized consent to request a distribution (other than a Qualified Joint and Survivor Annuity), withdrawal, or rollover under this Article IX.

**9.11 Deemed Severance from Employment.**

- (a) Unless otherwise elected by the Employer in the Adoption Agreement, effective January 1, 2009, a Participant shall be deemed to have a severance from employment solely for purposes of eligibility to receive distributions from the Plan during any period the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) for more than 30 days.
- (b) If a Participant receives a distribution pursuant to subsection (a), then the Participant shall not be permitted to make an after-tax voluntary contribution during the six-month period beginning on the date of the distribution.
- (c) If a Participant receives a distribution which could be attributable to:
  - (i) a deemed severance from employment described in subsection (a); or
  - (ii) another distribution event under the Plan,

then the distribution shall be considered made pursuant to the distribution event referenced in paragraph (ii), and the Participant shall not be subject to the limitation on after-tax voluntary contributions set forth in subsection (b).

**9.12 Distributions for Health and Long-Term Care Insurance for Public Safety Officers.**

- (a) If elected by the Employer, for Plan Years beginning after December 31, 2006, Eligible Retired Public Safety Officers may elect after separation from service to have up to \$3,000 distributed tax-free annually from the Plan in order to pay for Qualified Health Insurance Premiums for an accident or health plan (including a self-insured plan) or a qualified long-term care insurance contract. The Plan shall make such distributions directly to the provider of the accident or health plan or qualified long-term care insurance contract.
- (b) The term "Eligible Retired Public Safety Officer" means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a Public Safety Officer with the Employer who maintains the eligible retirement plan from which distributions pursuant to this Section are made. The term "Public Safety Officer" has the same meaning given such term by section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968.



- (c) The term “Qualified Health Insurance Premiums” means premiums for coverage for the Eligible Retired Public Safety Officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code section 7702(B)).

## X. DISTRIBUTION REQUIREMENTS

### 10.01 General Rules.

- (a) Generally. Subject to the provisions of Article XII or XVII if so elected by the Employer in the Adoption Agreement, the requirements of this Article shall apply to any distribution of a Participant’s interest and will take precedence over any inconsistent provisions of this Plan. Unless otherwise specified, the provisions of this Article X apply to calendar years beginning after December 31, 2002. With respect to distributions under the Plan made in or for Plan Years beginning on or after January 1, 2002 and prior to January 1, 2003, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Code in accordance with the regulations under section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary.
- (b) Distributions in Accordance with 401(a)(9). All distributions required under this Article shall be determined and made in accordance with the regulations under section 401(a)(9) of the Code, and the minimum distribution incidental benefit requirement of section 401(a)(9)(G) of the Code.
- (c) Limits on Distribution Periods. As of the first Distribution Calendar Year, distributions to a Participant, if not made in a single-sum, may only be made over one of the following periods:
- (1) The life of the Participant,
  - (2) The joint lives of the Participant and a designated Beneficiary,
  - (3) A period certain not extending beyond the life expectancy of the Participant, or
  - (4) A period certain not extending beyond the joint and last survivor expectancy of the Participant and a designated Beneficiary.
- (d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Article X, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.
- (e) EESA Provisions. The provisions relating to qualified disaster recovery assistance distributions for Participants affected by certain 2008 severe storms, flooding, and tornadoes and repayment thereof, and relating to repayment of prior qualified distributions for home purchases, set forth in section 702 of the Emergency Economic Stabilization Act of 2008 (“EESA”) shall apply to the Plan.
- (f) KETRA and GOZA Provisions. The provisions relating to qualified hurricane distributions and repayment thereof set forth in section 1400Q(a) of the Code, and relating to repayment of prior qualified distributions for home purchases set forth in Code section 1400Q(b), shall apply to the Plan. These provisions added to the Code by the Katrina Emergency Tax Relief Act of 2005 (“KETRA”) and the Gulf Opportunity Zone Act of 2005 (GOZA), permit plans to allow repayments of certain prior qualified distributions for home purchases for Participants affected by Hurricanes Katrina, Rita, and Wilma.

## 10.02 Time and Manner of Distribution

- (a) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- (b) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
- (1) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
  - (2) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
  - (3) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
  - (4) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 10.02(b), other than Section 10.02(b)(1), will apply as if the surviving spouse were the Participant.

For purposes of this Section 10.02(b) and Section 10.04, unless Section 10.02(b)(4) applies, distributions are considered to begin on the Participant's required beginning date. If Section 10.02(b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 10.02(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 10.02(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (c) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 10.03 and 10.04. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations.

## 10.03 Required Minimum Distributions During Participant's Lifetime

- (a) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
- (1) the quotient obtained by dividing the Participant's Account Balance by the distribution period set forth in the Uniform Lifetime Table found in Section 1.401(a)(9)-9, Q&A-2, of the Final Income Tax Regulations using the Participant's age as of the Participant's birthday in the distribution calendar year; or

- (2) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, Q&A-3, of the regulations using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.
- (b) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 10.03 beginning with the first distribution calendar year and continuing up to, and including, the distribution calendar year that includes the Participant's date of death.

#### 10.04 Required Minimum Distributions After Participant's Death

- (a) Death On or After Date Distributions Begin.
  - (1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:
    - (i) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
    - (ii) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
    - (iii) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
  - (2) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (b) Death Before Date Required Distributions Begin.
  - (1) Participant Survived by Designated Beneficiary. If the Participant dies before the date required distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 10.04(a).

- (2) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 10.02(b)(1), this Section 10.04(b) will apply as if the surviving spouse were the Participant.

## 10.05 Definitions

- (a) Designated Beneficiary. The individual who is designated by the Participant (or the Participant's surviving spouse) as the Beneficiary of the Participant's interest under the Plan and who is the designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4 of the regulations.
- (b) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 10.02(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.
- (c) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A-1, of the regulations.
- (d) Participant's Account Balance. The Account Balance as of the last Accounting Date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account Balance as of dates in the valuation calendar year after the Accounting Date and decreased by distributions made in the valuation calendar year after the Accounting Date. The Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- (e) Required Beginning Date. The Required Beginning Date of a Participant is April 1 of the calendar year following the later of the calendar year in which the Participant attains age seventy and one-half (70½), or the calendar year in which the Participant retires.

**10.06 Application of Minimum Distribution Requirements.** The minimum distribution requirements of section 401(a)(9) of the Code shall only apply to the Plan to the extent that such requirements are applicable by law for a year. Pursuant to the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), required minimum distributions were suspended for 2009.

**10.07 Special Rule for Scheduled Installment Payments.** All installment payments scheduled to be distributed to a Participant prior to the effective date of a suspension of the required minimum distribution provisions of Code section 401(a)(9) shall be distributed as scheduled unless the Participant affirmatively elects to have the payments stopped. Notwithstanding the foregoing, for purposes of this Section 10.07, the effective date of the suspension of the required minimum distribution provisions for 2009 shall be deemed January 6, 2009.

## XI. MODES OF DISTRIBUTION OF BENEFITS

**11.01 Normal Mode of Distribution.** Unless an elective mode of distribution is elected as provided in Section 11.02, benefits shall be paid to the Participant in the form of a lump sum payment.

Notwithstanding the foregoing, where the Employer made the "QJSA Election" in the Adoption Agreement, unless an elective mode of distribution is elected in accordance with Article XVII, benefits shall be paid to the Participant in the form provided for in Article XVII.

**11.02 Elective Mode of Distribution.** Subject to the requirements of Articles X, XII and XVII, a Participant may revocably elect to have his/her Account distributed in any one (1) of the following modes in lieu of the mode described in Section 11.01:

- (a) Equal Payments. Equal monthly, quarterly, semi-annual, or annual payments in an amount chosen by the Participant continuing until the Account is exhausted.
- (b) Period Certain. Approximately equal monthly, quarterly, semi-annual, or annual payments, calculated to continue for a period certain chosen by the Participant.
- (c) Other. Any other sequence of payments requested by the Participant.
- (d) Lump Sum. Where the Employer did make the QJSA Election in the Adoption Agreement, a Participant may also elect a lump sum payment.

**11.03 Election of Mode.** A Participant's election of a payment option must be made in writing between thirty (30) and one-hundred eighty (180) days (ninety (90) days for Plan Years beginning before January 1, 2007) before the payment of benefits is to commence.

**11.04 Death Benefits.** Subject to Article X (and Article XII or XVII if so elected by the Employer in the Adoption Agreement),

- (a) In the case of a Participant who dies before he/she has begun receiving benefit payments, the Participant's entire Nonforfeitable Interest shall then be payable to his/ her Beneficiary within ninety (90) days of the Participant's death. A Beneficiary who is entitled to receive benefits under this Section may elect to have benefits commence at a later date, subject to the provisions of Article X. The Beneficiary may elect to receive the death benefit in any of the forms available to the Participant under Sections 11.01 and 11.02. If the Beneficiary is the Participant's surviving spouse, and such surviving spouse dies before payment commences, then this Section shall apply to the beneficiary of the surviving spouse as though such surviving spouse were the Participant.
- (b) Should the Participant die after he/she has begun receiving benefit payments, the Beneficiary shall receive the remaining benefits, if any, that are payable, under the payment schedule elected by the Participant. Notwithstanding the foregoing, the Beneficiary may elect to accelerate payments of the remaining balances, including but not limited to, a lump sum distribution.

## XII. SPOUSAL DEATH BENEFIT REQUIREMENTS

**12.01 Application.** Unless otherwise elected by the Employer in the Adoption Agreement, on or after January 1, 2006, the provisions of this Article shall take precedence over any conflicting provision in this Plan. The provisions of this Article, known as the "Beneficiary Spousal Consent Election," shall apply to any Participant who is credited with any Period of Service with the Employer on or after August 23, 1984, and such other Participants as provided in Section 12.04.

## 12.02 Spousal Death Benefit.

- (a) On the death of a Participant, the Participant's Vested Account Balance will be paid to the Participant's Surviving Spouse. If there is no Surviving Spouse, or if the Participant has waived the spousal death benefit, as provided in Section 12.03, such Vested Account Balance will be paid to the Participant's designated Beneficiary.
- (b) The Surviving Spouse may elect to have distribution of the Vested Account Balance commence within the one-hundred eighty (180) day period following the date of the Participant's death, or as otherwise provided under Section 11.04. The Account balance shall be adjusted for gains or losses occurring after the Participant's death in accordance with the provisions of the Plan governing the adjustment of Account balances for other types of distributions.

## 12.03 Waiver of Spousal Death Benefit.

The Participant may waive the spousal death benefit described in Section 12.02 at any time; provided that no such waiver shall be effective unless: (a) the Participant's Spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent); (c) the Spouse's consent acknowledges the effect of the election; and (d) the Spouse's consent is witnessed by a Plan representative or notary public. If it is established to the satisfaction of a Plan representative that there is no Spouse or that the Spouse cannot be located, a waiver will be deemed to meet the requirements of this Section.

Any consent by a Spouse obtained under this provision (or establishment that the consent of a Spouse may not be obtained) shall be effective only with respect to such Spouse. A consent that permits designations by the Participant without any requirement of further consent by such Spouse must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Spouse at any time before the commencement of benefits. The number of revocations shall not be limited.

## 12.04 Definitions. For the purposes of this Section, the following definitions shall apply:

- (a) Spouse (Surviving Spouse). The Spouse or Surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or Surviving Spouse and a current Spouse will not be treated as the Spouse or Surviving Spouse to the extent provided under a qualified domestic relations order as described in section 414(p) of the Code.
- (b) Vested Account Balance. The aggregate value of the Participant's vested Account balances derived from Employer and Employee contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. The provisions of this Article shall apply to a Participant who is vested in amounts attributable to Employer Contributions, Employee contributions (or both) at the time of death or distribution.

### XIII. LOANS TO PARTICIPANTS

#### 13.01 Availability of Loans to Participants.

- (a) If the Employer has elected in the Adoption Agreement to make loans available to Participants, a Participant may apply for a loan from the Plan subject to the limitations and other provisions of this Article.
- (b) The Employer shall establish written guidelines governing the granting of loans, provided that such guidelines are approved by the Plan Administrator and are not inconsistent with the provisions of this Article, and that loans are made available to all applicable Participants on a reasonably equivalent basis.

#### 13.02 Terms and Conditions of Loans to Participants. Any loan by the Plan to a Participant under Section 13.01 of the Plan shall satisfy the following requirements:

- (a) Availability. Loans shall be made available to all Participants who are active Employees on a reasonably equivalent basis. Loans shall not be made available to terminated Employees, Beneficiaries, or alternate payees.
- (b) Nondiscrimination. Loans shall not be made to highly compensated Employees in an amount greater than the amount made available to other Employees.
- (c) Interest Rate. Loans must be adequately secured and bear a reasonable interest rate.
- (d) Loan Limit. No Participant loan shall exceed the present value of the Participant's Nonforfeitable Interest in his/her Account.
- (e) Foreclosure. In the event of default, foreclosure on the note and attachment of security will not occur until a distributable event occurs in the Plan.
- (f) Reduction of Account. Notwithstanding any other provision of this Plan, the portion of the Participant's vested Account balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the Account balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than one hundred percent (100%) of the Participant's nonforfeitable Account balance (determined without regard to the preceding sentence) is payable to the surviving spouse, then the Account balance shall be adjusted by first reducing the nonforfeitable Account balance by the amount of the security used as repayment of the loan, and then determining the benefit payable to the surviving spouse.
- (g) Amount of Loan. At the time the loan is made, the principal amount of the loan plus the outstanding balance (principal plus accrued interest) due on any other outstanding loans to the Participant or Beneficiary from the Plan and from all other plans of the Employer that are qualified employer plans under section 72(p)(4) of the Code shall not exceed the lesser of:
  - (1) \$50,000, reduced by the excess (if any) of
    - (i) The highest outstanding balance of loans from the Plan during the one (1) year period ending on the day before the date on which the loan is made, over
    - (ii) The outstanding balance of loans from the Plan on the date on which such loan is made; or

- (2) One-half (½) of the value of the Participant's Nonforfeitable Interest in all of his/her Accounts under this Plan (or \$10,000, if greater, for loans prior to January 1, 2006).

For the purpose of the above limitation, all loans from all qualified employer plans of the Employer, including 457(b) plans, under Code section 72(p)(4) are aggregated.

- (h) Application for Loan. The Participant must give the Employer adequate written notice, as determined by the Employer, of the amount and desired time for receiving a loan. No more than one (1) loan may be made by the Plan to a Participant in any calendar year. No loan shall be approved if an existing loan from the Plan to the Participant is in default to any extent.
- (i) Length of Loan. The terms of any loan issued or renegotiated after December 31, 1993, shall require the Participant to repay the loan in substantially equal installments of principal and interest, at least quarterly (except as otherwise provided in Treasury Regulation section 1.72(p)-1, Q&A-9 for certain leave of absence and military leave), over a period that does not exceed five (5) years from the date of the loan; provided, however, that if the proceeds of the loan are applied by the Participant to acquire any dwelling unit that is to be used within a reasonable time after the loan is made as the principal residence of the Participant, the five (5) year limit shall not apply. In this event, the period of repayment shall not exceed a reasonable period determined by the Employer. Principal installments and interest payments otherwise due may be suspended during an authorized leave of absence, if the promissory note so provides, but not beyond the original term permitted under this Subsection (i), with a revised payment schedule (within such term) instituted at the end of such period of suspension. If the Participant fails to make any installment payment, the Plan Administrator may, according to Treasury Regulation 1.72(p)-1, allow a cure period, which cure period cannot continue beyond the last day of the calendar quarter following the calendar quarter in which the required installment payment was due.
- (j) Prepayment. The Participant shall be permitted to repay the loan in whole or in part at any time prior to maturity, without penalty.
- (k) Note. The loan shall be evidenced by a promissory note executed by the Participant and delivered to the Employer, and shall bear interest at a reasonable rate determined by the Employer. Unless waived by a Participant, any plan loan that is outstanding on the date that active duty military service begins will accrue interest at a rate of no more than 6% during the period of military service in accordance with the provisions of the Servicemembers Civil Relief Act (SCRA), 50 USC App. § 526 and subject to the notice requirements contained therein. This limitation applies even if loan payments are suspended during the period of military service as permitted under the Plan and Treasury regulations.
- (l) Security. The loan shall be secured by an assignment of that portion the Participant's right, title and interest in and to his/her Employer Contribution Account (to the extent vested), Participant Contribution Account, and Rollover Account that is equal to fifty percent (50%) of the Participant's Account (to the extent vested).
- (m) Assignment or Pledge. For the purposes of paragraphs (h) and (i), assignment or pledge of any portion of the Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan.
- (n) Spousal Consent. If the Employer elected the QJSA Election in the Adoption Agreement, the Participant must first obtain his or her spouse's notarized consent to the loan. Spousal consent shall be obtained no earlier than the beginning of the one-hundred eighty (180) day period (ninety (90) day period for plan years beginning before January 1, 2007) that ends on the date on which the loan is to be so secured. The consent



must be in writing, must acknowledge the effect of the loan, and must be witnessed by a Plan representative or notary public. Such consent shall thereafter be binding with respect to the consenting spouse or any subsequent spouse with respect to that loan. A new consent shall be required if the account balance is used for renegotiation, extension, renewal, or other revision of the loan.

- (o) Other Terms and Conditions. The Employer shall fix such other terms and conditions of the loan as it deems necessary to comply with legal requirements, to maintain the qualification of the Plan and Trust under section 401(a) of the Code, or to prevent the treatment of the loan for tax purposes as a distribution to the Participant. The Employer, in its discretion for any reason, may fix other terms and conditions of the loan, not inconsistent with the provisions of this Article, including:
  - (1) the circumstances under which a loan becomes immediately due and payable, provided, however, with respect to loans issued after December 31, 2012, that the loan program shall not provide that a loan becomes due and payable solely because the Participant requests or receives a partial distribution of the Participant's account balance after termination of employment;
  - (2) rules relating to reamortization of loans; and
  - (3) rules relating to refinance of loans.

### **13.03 Participant Loan Accounts.**

- (a) Upon approval of a loan to a Participant by the Employer, an amount not in excess of the loan shall be transferred from the Participant's other investment fund(s), described in Section 6.05 of the Plan, to the Participant's Loan Account as of the Accounting Date immediately preceding the agreed upon date on which the loan is to be made.
- (b) The assets of a Participant's Loan Account may be invested and reinvested only in promissory notes received by the Plan from the Participant as consideration for a loan permitted by Section 13.01 of the Plan or in cash. Uninvested cash balances in a Participant's Loan Account shall not bear interest. No person who is otherwise a fiduciary of the Plan shall be liable for any loss, or by reason of any breach, that results from the Participant's exercise of such control.
- (c) Repayment of principal and payment of interest shall be made by payroll deduction or Automated Clearing House (ACH) transfer, or with respect to a terminated Employee solely by ACH, and shall be invested in one (1) or more other investment funds, in accordance with Section 6.05 of the Plan, as of the next Accounting Date after payment thereof to the Trust. The amount so invested shall be deducted from the Participant's Loan Account. A payment intended to be a Prepayment or payment of the loan in full may also be made by cashier's check or money order, and shall be invested in accordance with this provision.
- (d) The Employer shall have the authority to establish other reasonable rules, not inconsistent with the provisions of the Plan, governing the establishment and maintenance of Participant Loan Accounts.

## **XIV. PLAN AMENDMENT, TERMINATION AND OPTIONAL PROVISIONS**

**14.01 Amendment by Employer.** The Employer reserves the right, subject to Section 14.02 of the Plan, to amend the Plan from time to time by either:

- (a) Filing an amended Adoption Agreement to change, delete, or add any optional provision, or
- (b) Continuing the Plan in the form of an amended and restated Plan and Trust.

No amendment to the Plan shall be effective to the extent that it has the effect of decreasing a Participant's accrued benefit. Notwithstanding the preceding sentence, a Participant's Account balance may be reduced to the extent permitted under section 412(d)(2) of the Code. For purposes of this paragraph, a Plan amendment which has the effect of decreasing a Participant's Account balance or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing an accrued benefit. Furthermore, if the vesting schedule of the Plan is amended, in the case of an Employee who is a Participant as of the later of the date such amendment is adopted or the date it becomes effective, the nonforfeitable percentage (determined as of such date) of such Employee's right to his/her Employer-derived accrued benefit will not be less than his percentage computed under the plan without regard to such amendment.

No amendment to the Plan shall be effective to eliminate or restrict an optional form of benefit. The preceding sentence shall not apply to a Plan amendment that eliminates or restricts the ability of a Participant to receive payment of his or her Account balance under a particular optional form of benefit if the amendment provides a single-sum distribution form that is otherwise identical to the optional form of benefit being eliminated or restricted. For this purpose, a single-sum distribution form is otherwise identical only if the single-sum distribution form is identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provides greater rights to the Participant) except with respect to the timing of payments after commencement.

The Employer may (1) change the choice of options in the Adoption Agreement, (2) add overriding language in the Adoption Agreement when such language is necessary to satisfy sections 415 or 416 of the Code because of the required aggregation of multiple plans, (3) amend administrative provisions of the trust or custodial document in the case of a nonstandardized plan and make more limited amendments in the case of a standardized plan such as the name of the plan, employer, trustee or custodian, plan administrator and other fiduciaries, the trust year, and the name of any pooled trust in which the Plan's trust will participate, (4) add certain sample or model amendments published by the Internal Revenue Service or other required good faith amendments which specifically provide that their adoption will not cause the plan to be treated as individually designed, and (5) add or change provisions permitted under the Plan and/or specify or change the effective date of a provision as permitted under the Plan and correct obvious and unambiguous typographical errors and/or cross-references that merely correct a reference but that do not in any way change the original intended meaning of the provisions. An Employer that amends the Plan for any other reason will be considered to have an individually designed plan.

**14.02 Amendment of Vesting Schedule.** If the Plan's vesting schedule is amended, or the Plan is amended in any way that directly or indirectly affects the computation of the Participant's nonforfeitable percentage, each Participant may elect, within a reasonable period after the adoption of the amendment or change, to have the nonforfeitable percentage computed under the Plan without regard to such amendment or change.

The period during which the election may be made shall commence with the date the amendment is adopted or deemed to be made and shall end on the latest of:

- (a) Sixty (60) days after the amendment is adopted;
- (b) Sixty (60) days after the amendment becomes effective; or
- (c) Sixty (60) days after the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

**14.03 Termination by Employer.** The Employer reserves the right to terminate this Plan. However, in the event of such termination no part of the Trust shall be used or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries, except as provided in this Section.

Upon Plan termination or partial termination, all Account balances shall be valued at their fair market value and the Participant's right to his/her Employer Contribution Account shall be one hundred percent (100%) vested and nonforfeitable. Such amount and any other amounts held in the Participant's other Accounts shall be maintained for the Participant until paid pursuant to the terms of the Plan.

Any amounts held in a suspense account, after all liabilities of the Plan to Participants and Beneficiaries have been satisfied or provided for, shall be paid to the Employer in accordance with the Code and regulations thereunder.

In the event that the Commissioner of Internal Revenue determines that the Plan is not initially qualified under the Internal Revenue Code, any contribution made by the Employer incident to that initial qualification must be returned to the Employer within one year after the date the initial qualification is denied, but only if the application for the qualification is made by the time prescribed by law for filing the Employer's return for the year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

**14.04 Discontinuance of Contributions.** A permanent discontinuance of contributions to the Plan by the Employer, unless an amended and restated Plan is established, shall constitute a Plan termination. In the event of a complete discontinuance of contributions under the Plan, the Account balance of each affected Participant shall be nonforfeitable.

**14.05 Amendment by Plan Administrator.** The Plan Administrator may amend this Plan upon thirty (30) days written notification to the Employer; provided, however, that any such amendment must be for the express purpose of maintaining compliance with applicable federal laws and regulations, revenue rulings, other statements published by the Internal Revenue Service (including model and sample amendments that specifically provide that their adoption will not cause such Plan to be individually designed), or corrections of prior approved Plans may be applied to all Employers who have adopted the Plan. Such amendment shall become effective unless, within such 30-day period, the Employer notifies the Administrator, in writing, that it disapproves such amendment, in which case such amendment shall not become effective. In the event of such disapproval, the Administrator shall be under no obligation to continue acting as Administrator hereunder.

For purposes of reliance on the advisory letter, the Plan Administrator shall no longer have authority to amend the Plan on behalf of the Employer as of the date of the adoption of an Employer amendment to the Plan to incorporate a type of plan not allowable in the volume submitter program described in section 16.03 of Revenue Procedure 2011-49 (or successor guidance) or as of the date the Internal Revenue Service notifies the Plan Administrator that the Plan is being treated as an individually designed plan pursuant to section 24.03 of Revenue Procedure 2011-49 (or successor guidance).

**14.06 Optional Provisions.** Any provision which is optional under this Plan shall become effective if and only if elected by the Employer and agreed to by the Plan Administrator.

**14.07 Failure of Qualification.** If the Employer's plan fails to attain or retain qualification, such plan will no longer participate in this Plan and will be considered an individually designed plan.

## XV. ADMINISTRATION

**15.01 Powers of the Employer.** The Employer shall have the following powers and duties:

- (a) To appoint and remove, with or without cause, the Plan Administrator;
- (b) To amend or terminate the Plan pursuant to the provisions of Article XIV;

- (c) To appoint a committee to facilitate administration of the Plan and communications to Participants;
- (d) To decide all questions of eligibility (1) for Plan participation, and (2) upon appeal by any Participant, Employee or Beneficiary, for the payment of benefits;
- (e) To engage an independent qualified public accountant, when required to do so by law, to prepare annually the audited financial statements of the Plan's operation;
- (f) To take all actions and to communicate to the Plan Administrator in writing all necessary information to carry out the terms of the Plan and Trust; and
- (g) To notify the Plan Administrator in writing of the termination of the Plan.

**15.02 Duties of the Plan Administrator.** The Plan Administrator shall have the following powers and duties, subject to the oversight by the Employer:

- (a) To construe and interpret the provisions of the Plan;
- (b) To maintain and provide such returns, reports, schedules, descriptions, and individual Account statements as are required by law within the times prescribed by law; and to furnish to the Employer, upon request, copies of any or all such materials, and further, to make copies of such instruments, reports, descriptions, and statements as are required by law available for examination by Participants and such of their Beneficiaries who are or may be entitled to benefits under the Plan in such places and in such manner as required by law;
- (c) To obtain from the Employer such information as shall be necessary for the proper administration of the Plan;
- (d) To determine the amount, manner, and time of payment of benefits hereunder;
- (e) To appoint and retain such agents, counsel, and accountants for the purpose of properly administering the Plan;
- (f) To distribute assets of the Trust to each Participant and Beneficiary in accordance with Article X of the Plan;
- (g) To pay expenses from the Trust pursuant to Section 6.03 of the Plan; and
- (h) To do such other acts reasonably required to administer the Plan in accordance with its provisions or as may be provided for or required by the Code.

**15.03 Protection of the Employer.** The Employer shall not be liable for the acts or omissions of the Plan Administrator, but only to the extent that such acts or omissions do not result from the Employer's failure to provide accurate or timely information as required or necessary for proper administration of the Plan.

**15.04 Protection of the Plan Administrator.** The Plan Administrator may rely upon any certificate, notice or direction purporting to have been signed on behalf of the Employer which the Plan Administrator believes to have been signed by a duly designated official of the Employer.

**15.05 Resignation or Removal of Plan Administrator.** The Plan Administrator may resign at any time effective upon sixty (60) days prior written notice to the Employer. The Plan Administrator may be removed by the Employer at any time upon sixty (60) days prior written notice to the Plan Administrator. Upon the resignation or removal of the Plan Administrator, the Employer may appoint a successor Plan Administrator; failing such appointment, the

Employer shall assume the powers and duties of Plan Administrator. Upon the resignation or removal of the Plan Administrator, any Trust assets invested by or held in the name of the Plan Administrator shall be transferred to the trustee in cash or property, at fair market value, except that the return of Trust assets invested in a contract issued by an insurance company shall be governed by the terms of that contract.

- 15.06 No Termination Penalty.** The Plan Administrator shall have no authority or discretion to impose any termination penalty upon its removal.
- 15.07 Decisions of the Plan Administrator.** All constructions, determinations, and interpretations made by the Plan Administrator pursuant to Section 15.02(a) or (d) or by the Employer pursuant to Section 15.01(d) shall be final and binding on all persons participating in the Plan, given deference in all courts of law to the greatest extent allowed by applicable law, and shall not be overturned or set aside by any court of law unless found to be arbitrary or capricious, or made in bad faith.

## XVI. MISCELLANEOUS

- 16.01 Nonguarantee of Employment.** Nothing contained in this Plan shall be construed as a contract of employment between the Employer and any Employee, or as a right of an Employee to be continued in the employment of the Employer, as a limitation of the right of the Employer to discharge any of its Employees, with or without cause.
- 16.02 Rights to Trust Assets.** No Employee or Beneficiary shall have any right to, or interest in, any assets of the Trust upon termination of his/her employment or otherwise, except as provided from time to time under this Plan, and then only to the extent of the benefits payable under the Plan to such Employee or Beneficiary out of the assets of the Trust. All payments of benefits as provided for in this Plan shall be made solely out of the assets of the Trust and none of the fiduciaries shall be liable therefor in any manner.
- 16.03 Nonalienation of Benefits.** Except as provided in Sections 16.04 and 16.06 of the Plan, benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder, shall be void. The Trust shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.
- 16.04 Qualified Domestic Relations Order.** Notwithstanding Section 16.03 of the Plan, amounts may be paid with respect to a Participant pursuant to a domestic relations order, but if and only if the order is determined to be a qualified domestic relations order within the meaning of section 414(p) of the Code or any domestic relations order entered before January 1, 1985.
- 16.05 Nonforfeitability of Benefits.** Subject only to the specific provisions of this Plan, nothing shall be deemed to deprive a Participant of his/her right to the Nonforfeitable Interest to which he/ she becomes entitled in accordance with the provisions of the Plan.
- 16.06 Incompetency of Payee.** In the event any benefit is payable to a minor or incompetent, to a person otherwise under legal disability, or to a person who, in the sole judgment of the Employer, is by reason of advanced age, illness, or other physical or mental incapacity incapable of handling the disposition of his/her property, the Employer may apply the whole or any part of such benefit directly to the care, comfort, maintenance, support, education, or use of such person or pay or distribute the whole or any part of such benefit to:

- (a) The parent of such person;
- (b) The guardian, committee, or other legal representative, wherever appointed, of such person;
- (c) The person with whom such person resides;
- (d) Any person having the care and control of such person; or
- (e) Such person personally.

The receipt of the person to whom any such payment or distribution is so made shall be full and complete discharge therefor.

- 16.07 Inability to Locate Payee.** Anything to the contrary herein notwithstanding, if the Employer is unable, after reasonable effort, to locate any Participant or Beneficiary to whom an amount is payable hereunder, such amount shall be forfeited and held in the Trust for application against the next succeeding Employer Contribution or contributions required to be made hereunder. Notwithstanding the foregoing, however, such amount shall be reinstated, by means of an additional Employer contribution, if and when a claim for the forfeited amount is subsequently made by the Participant or Beneficiary or if the Employer receives proof of death of such person, satisfactory to the Employer. To the extent not inconsistent with applicable law, any benefits lost by reason of escheat under applicable state law shall be considered forfeited and shall not be reinstated.
- 16.08 Mergers, Consolidations, and Transfer of Assets.** The Plan shall not be merged into or consolidated with any other plan, nor shall any of its assets or liabilities be transferred into any such other plan, unless each Participant in the Plan would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer that is equal to or greater than the benefit he/she would have been entitled to receive immediately before the merger, consolidation, or transfer (if the Plan had then terminated).
- 16.09 Employer Records.** Records of the Employer as to an Employee's or Participant's Period of Service, termination of service and the reason therefor, leaves of absence, reemployment, Earnings, and Compensation will be conclusive on all persons, unless determined to be incorrect.
- 16.10 Gender and Number.** The masculine pronoun, whenever used herein, shall include the feminine pronoun, and the singular shall include the plural, except where the context requires otherwise.
- 16.11 Applicable Law.** The Plan shall be construed under the laws of the State where the Employer is located, except to the extent superseded by federal law. The Plan is established with the intent that it meets the requirements under the Code. The provisions of this Plan shall be interpreted in conformity with these requirements.
- In the event of any conflict between the Plan and a policy or contract issued hereunder, the Plan provisions shall control; provided, however, no Plan amendment shall supersede an existing policy or contract unless such amendment is required to maintain qualification under section 401(a) and 414(d) of the Code.
- 16.12 Electronic Communication and Consent.** Unless expressly provided otherwise, where this Plan provides that a document, election, notification, direction, signature, or consent will be in writing, such writing may occur through an electronic medium, including but not limited to electronic mail, intranet or internet web posting and online account access, to the fullest extent permitted by applicable law.

## XVII. SPOUSAL BENEFIT REQUIREMENTS

- 17.01 Application.** Effective as of January 1, 2006, where elected by the Employer in the Adoption Agreement (the "QJSA Election"), the provisions of this Article shall take precedence over any conflicting provision in this Plan. If elected, the provisions of this Article shall apply to any Participant who is credited with any Period of Service with the Employer on or after August 23, 1984, and such other Participants as provided in Section 17.06.
- 17.02 Qualified Joint and Survivor Annuity.** Unless an optional form of benefit is selected pursuant to a Qualified Election within the one-hundred eighty (180) day period ending on the Annuity Starting Date, a married Participant's Vested Account Balance will be paid in the form of a Qualified Joint and Survivor Annuity and an unmarried Participant's Vested Account Balance will be paid in the form of a Straight Life Annuity. The Participant may elect to have such annuity distributed upon the attainment of the Earliest Retirement Age under the Plan.
- 17.03 Qualified Optional Survivor Annuity.** For plan years beginning after December 31, 2007, if a married participant elects to waive the qualified joint and survivor annuity, the participant may elect the qualified optional survivor annuity at any time during the applicable election period, provided, however, that this Section shall apply only to the extent the Plan makes another survivor annuity available.
- 17.04 Qualified Preretirement Survivor Annuity.** If a Participant dies before the Annuity Starting Date, then fifty percent (50%) of the Participant's Vested Account Balance shall be applied toward the purchase of an annuity for the life of the Surviving Spouse; the remaining portion shall be paid to such Beneficiaries (which may include such Spouse) designated by the Participant. Notwithstanding the foregoing, the Participant may waive the spousal annuity by designating a different Beneficiary within the Election Period pursuant to a Qualified Election. To the extent that less than one hundred percent (100%) of the vested Account balance is paid to the Surviving Spouse, the amount of the Participant's Account derived from Employee contributions will be allocated to the Surviving Spouse in the same proportion as the amount of the Participant's Account derived from Employee contributions is to the Participant's total Vested Account Balance. The Surviving Spouse may elect to have such annuity distributed within a reasonable period after the Participant's death. Further, such Spouse may elect to receive any death benefit payable to him/her hereunder in any of the forms available to the Participant under Section 11.02.
- 17.05 Notice Requirements.**
- (a) In the case of a Qualified Joint and Survivor Annuity as described in Section 17.02, the Plan Administrator shall, no less than thirty (30) days and no more than one-hundred eighty (180) days (or ninety (90) days for notices given in Plan Years before January 1, 2007) prior to the Annuity Starting Date, provide each Participant a written explanation of: (i) the terms and conditions of a Qualified Joint and Survivor Annuity; (ii) the Participant's right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity form of benefit; (iii) the rights of a Participant's Spouse; and (iv) the right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity. However, if the Participant, after having received the written explanation, affirmatively elects a form of distribution and the Spouse consents to that form of distribution (if necessary), benefit payments may commence less than thirty (30) days after the written explanation was provided to the Participant, provided that the following requirements are met:
    - (1) The Plan Administrator provides information to the Participant clearly indicating that the Participant has a right to at least thirty (30) days to consider whether to waive the Qualified Joint and Survivor Annuity and consent to a form of distribution other than a Qualified Joint and Survivor Annuity;

- (2) The Participant is permitted to revoke an affirmative distribution election at least until the Annuity Starting Date, or if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant;
  - (3) The Annuity Starting Date is after the date that the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant; and
  - (4) Distribution in accordance with the affirmative election does not commence before the expiration of the 7-day period that begins after the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant.
- (b) In the case of a Qualified Preretirement Survivor Annuity as described in Section 17.04, the Plan Administrator shall provide each Participant within the applicable period for such Participant a written explanation of the Qualified Preretirement Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements of Subsection (a) applicable to a Qualified Joint and Survivor Annuity.

The applicable period for a Participant is whichever of the following periods ends last:

- (i) the period beginning with the first day of the Plan Year in which the Participant attains age thirty-two (32) and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age thirty-five (35);
- (ii) a reasonable period ending after the individual becomes a Participant;
- (iii) a reasonable period ending after Subsection (c) ceases to apply to the Participant;
- (iv) a reasonable period ending after this Article first applies to the Participant. Notwithstanding the foregoing, notice must be provided within a reasonable period ending after separation from service in the case of a Participant who separates from service before attaining age thirty-five (35).

For purposes of applying the preceding paragraph, a reasonable period ending after the enumerated events described in (ii), (iii) and (iv) is the end of the two (2) year period beginning one (1) year prior to the date the applicable event occurs, and ending one (1) year after that date. In the case of a Participant who separates from service before the Plan Year in which age thirty-five (35) is attained, notice shall be provided within the two (2) year period beginning one (1) year prior to separation and ending one (1) year after separation. If such a Participant thereafter returns to employment with the Employer, the applicable period for such Participant shall be redetermined.

- (c) Notwithstanding the other requirements of this Section, the respective notices prescribed by this Section need not be given to a Participant if (1) the Plan “fully subsidizes” the costs of a Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity, and (2) the Plan does not allow the Participant to waive the Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity and does not allow a married Participant to designate a non-Spouse Beneficiary. For purposes of this Subsection (c), a plan fully subsidizes the costs of a benefit if no increase in cost or decrease in benefits to the Participant may result from the Participant’s failure to elect another benefit.

**17.06 Definitions.** For the purposes of this Section, the following definitions shall apply:

- (a) Annuity Starting Date. The first day of the first period for which an amount is paid as an annuity or any other form.



- (b) Election Period. The period which begins on the first day of the Plan Year in which the Participant attains age thirty-five (35) and ends on the date of the Participant's death. If a Participant separates from service prior to the first day of the Plan Year in which age thirty-five (35) is attained, with respect to the Account balance as of the date of separation, the Election Period shall begin on the date of separation. Pre-age thirty-five (35) waiver: A Participant who will not yet attain age thirty-five (35) as of the end of any current Plan Year may make a special Qualified Election to waive the Qualified Preretirement Survivor Annuity for the period beginning on the date of such election and ending on the first day of the Plan Year in which the Participant will attain age thirty-five (35). Such election shall not be valid unless the Participant receives a written explanation of the Qualified Preretirement Survivor Annuity in such terms as are comparable to the explanation required under Section 17.05(a). Qualified Preretirement Survivor Annuity coverage will be automatically reinstated as of the first day of the Plan Year in which the Participant attains age thirty-five (35). Any new waiver on or after such date shall be subject to the full requirements of this Article.
- (c) Earliest Retirement Age. The earliest date on which, under the Plan, the Participant could elect to receive retirement benefits.
- (d) Qualified Election. A waiver of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity. Any waiver of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity shall not be effective unless: (a) the Participant's Spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent); (c) the Spouse's consent acknowledges the effect of the election; and (d) the Spouse's consent is witnessed by a Plan representative or notary public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity shall not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further Spousal consent). If it is established to the satisfaction of a Plan representative that there is no Spouse or that the Spouse cannot be located, a waiver will be deemed a Qualified Election.

Any consent by a Spouse obtained under this provision (or establishment that the consent of a Spouse may not be obtained) shall be effective only with respect to such Spouse. A consent that permits designations by the Participant without any requirement of further consent by such Spouse must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 17.05.

- (e) Qualified Joint and Survivor Annuity. An immediate annuity for the life of the Participant with a survivor annuity for the life of the Spouse which is fifty percent (50%) of the amount of the annuity which is payable during the joint lives of the Participant and the Spouse and which is the amount of benefit which can be purchased with the Participant's Vested Account Balance.
- (f) Spouse (Surviving Spouse). The Spouse or Surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or Surviving Spouse and a current Spouse will not be treated as the Spouse or Surviving Spouse to the extent provided under a qualified domestic relations order as described in section 414(p) of the Code.
- (g) Straight Life Annuity. An annuity payable in equal installments for the life of the Participant that terminates upon the Participant's death.

- (h) Vested Account Balance. The aggregate value of the Participant's vested Account balances derived from Employer and Employee contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. The provisions of this Article shall apply to a Participant who is vested in amounts attributable to Employer Contributions, Employee contributions (or both) at the time of death or distribution.

**17.07 Annuity Contracts.** Where benefits are to be paid in the form of a life annuity pursuant to the terms of this Article, a nontransferable annuity contract shall be purchased from a life insurance company and distributed to the Participant or Surviving Spouse, as applicable. The terms of any annuity contract purchased and distributed by the Plan shall comply with the requirements of this Plan and section 417 of the Code.

## XVIII. FINAL PAY CONTRIBUTIONS

**18.01 Eligibility.** Effective as of January 1, 2006, if elected by the Employer in the Adoption Agreement, Final Pay Contributions on behalf of each eligible Participant equal to the equivalent of the accrued unpaid final pay, as defined in the Adoption Agreement ("Final Pay"), shall be contributed to the Plan. Eligibility for Final Pay Contributions is limited to only those Participants or class of Participants that the Employer elects in the Adoption Agreement.

**18.02 Contribution Amount.** At the election of the Employer in the Adoption Agreement, the Final Pay Contributions may be made as either (a) Employer Final Pay Contributions, or (b) Employee Designated Final Pay Contributions, as described below.

- (a) Employer Final Pay Contributions. The Employer shall contribute to the Plan for each eligible Participant the equivalent of a designated amount of accrued unpaid final pay upon termination of employment of the Participant, as the Employer so elects in the Adoption Agreement. The Employer's contribution for any Plan Year shall be due and paid not later than the time prescribed by applicable law. The Employer Final Pay Contributions shall be accounted for in the Employer Contribution Account.
- (b) Employee Designated Final Pay Contributions. The Employer shall contribute to the Plan for each eligible Participant all or any portion of a Participant's Final Pay, as elected by the Participant. The Employer may limit the amount of Final Pay to be elected to be contributed to the Plan. Once elected, an Employee's election shall remain in force and may not be revised or revoked.

The Employee Designated Final Pay Contributions shall be accounted for in the Participant Contribution Account, and are nonforfeitable by the Participant at all times.

The Employee Designated Final Pay Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). The contributions shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

A Participant cannot elect to receive cash in lieu of any Final Pay Contribution.

**18.03 Equivalencies.** The Final Pay Contribution shall be determined by multiplying the Participant's current daily rate of pay from the Employer times the amount of accrued unpaid leave being converted.

**18.04 Excess Contributions.** Final Pay Contributions are limited to the extent of applicable law and any Code limitation. No Final Pay Contribution shall be made to the extent that it would exceed the applicable Code section 415 limitation, as set forth in Article V. Any excess contributions as a result of the Code section 415 limitation shall remain in the Participant's leave bank.

## XIX. ACCRUED LEAVE CONTRIBUTIONS

- 19.01 Eligibility.** Effective as of January 1, 2006, if elected by the Employer in the Adoption Agreement, Accrued Leave Contributions on behalf of each eligible Participant equal to the equivalent of the accrued unpaid leave, as defined in the Adoption Agreement (“Accrued Leave”), shall be contributed to the Plan. Eligibility for Accrued Leave Contributions is limited to only those Participants or class of Participants that the Employer elects in the Adoption Agreement.
- 19.02 Contribution Amount.** At the election of the Employer in the Adoption Agreement, the Accrued Leave Contributions may be made as either (a) Employer Accrued Leave Contributions, or (b) Employee Designated Accrued Leave Contributions, as described below.
- (a) Employer Accrued Leave Contributions. The Employer shall contribute to the Plan for each eligible Participant the equivalent of a designated amount of accrued unpaid leave each year, as the Employer so elects in the Adoption Agreement. The Employer’s contribution for any Plan Year shall be due and paid not later than the time prescribed by applicable law. The Employer Accrued Leave Contributions shall be accounted for in the Employer Contribution Account.
- (b) Employee Designated Accrued Leave Contributions. The Employer shall contribute to the Plan for each eligible Participant all or any portion of a Participant’s Accrued Leave, as elected by the Participant. The Employer may limit the amount of Accrued Leave to be elected to be contributed to the Plan. Once elected, an Employee’s election shall remain in force and may not be revised or revoked.
- The Employee Designated Accrued Leave Contributions shall be accounted for in the Participant Contribution Account, and are nonforfeitable by the Participant at all times.
- The Employee Designated Accrued Leave Contributions shall be “picked up” by the Employer in accordance with Code section 414(h)(2). The contributions shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.
- A Participant cannot elect to receive cash in lieu of any Accrued Leave Contribution.
- 19.03 Equivalencies.** The Accrued Leave Contribution shall be determined by multiplying the Participant’s current daily rate of pay from the Employer times the amount of accrued unpaid leave being converted.
- 19.04 Excess Contributions.** Accrued Leave Contributions are limited to the extent of applicable law and any Code limitation. No Accrued Leave Contribution shall be made to the extent that it would exceed the applicable Code section 415 limitation, as set forth in Article V. Any excess contributions as a result of the Code section 415 limitation shall remain in the Participant’s leave bank.

## DECLARATION OF TRUST

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19th day of May, 2001, by VantageTrust Company, which declares itself to be the sole Trustee of the trust hereby created.

WHEREAS, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

WHEREAS, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

NOW, THEREFORE, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

- (a) *Incorporation of ICMA Declaration by Reference; ICMA By-Laws.* Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.


Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

1. any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such obligation is undertaken by the ICMA Retirement Trust (in which case the obligation of the Group Trust shall run to the ICMA Retirement Trust); and
  2. all provisions dealing with the number, qualification, election, term and nomination of Trustees shall not apply, and all other provisions relating to trustees (including, but not limited to, resignation and removal) shall be interpreted in a manner consistent with the appointment of a single corporate trustee.
- (b) *Compliance with Revenue Procedure 81-100.* The requirements of Revenue Procedure 81-100 are applicable to the Group Trust as follows:
1. Pursuant to the terms of this Group Trust Agreement and Article X of the By-Laws, investment in the Group Trust is limited to assets of Deferred Compensation and Qualified Plans, investing through the ICMA Retirement Trust.
  2. Pursuant to the By-Laws, the Group Trust is adopted as a part of each Qualified Plan that invests herein through the ICMA Retirement Trust.

3. In accord with the By-Laws, that part of the Group Trust's corpus or income which equitably belongs to any Deferred Compensation and Qualified Plan may not be used for or diverted to any purposes other than for the exclusive benefit of the Plan's employees or their beneficiaries who are entitled to benefits under such Plan.
  4. In accord with the By-Laws, no Deferred Compensation Plan or Qualified Plan may assign any or part of its equity or interest in the Group Trust, and any purported assignment of such equity or interest shall be void.
- (c) *Governing Law.* Except as otherwise required by federal, state or local law, this Declaration of Trust (including the ICMA Declaration to the extent incorporated herein) and the Group Trust created hereunder shall be construed and determined in accordance with applicable laws of the State of New Hampshire.
- (d) *Judicial Proceedings.* The Trustee may at any time initiate an action or proceeding in the appropriate state or federal courts within or outside the state of New Hampshire for the settlement of its accounts or for the determination of any question of construction which may arise or for instructions.

IN WITNESS WHEREOF, the Trustee has executed this Declaration of Trust as of the day and year first above written.

VANTAGETRUST COMPANY

By:   
Name: Paul F. Gallagher  
Title: Assistant Secretary



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Plan Description: Volume Submitter Money Purchase Pension Plan  
FFN: 315D0880003-001 Case: 201200590 EIN: 23-7268394  
Letter Serial No: J593644a  
Date of Submission: 04/02/2012

ICMA RETIREMENT CORP  
777 NORTH CAPITOL ST. NE, SUITE 600  
WASHINGTON, DC 20002

Contact Person:  
Janell Hayes  
Telephone Number:  
513-263-3602  
In Reference To: TEGE:EP:7521  
Date: 03/31/2014

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable under section 401 of the Internal Revenue Code for use by employers for the benefit of their employees. This opinion relates only to the acceptability of the form of the plan under the Internal Revenue Code. It is not an opinion of the effect of other Federal or local statutes.

You must furnish a copy of this letter, a copy of the approved plan, and copies of any subsequent amendments to adopting employers if the practitioner is authorized to amend the plan on their behalf, to each employer who adopts this plan. Effective on or after 10/31/2011, interim amendments adopted by the practitioner on behalf of employers must provide the date of adoption by the practitioner.

This letter considers the changes in qualification requirements contained in the 2010 Cumulative List of Notice 2010-90, 2010-52 I.R.B. 909.

Our opinion on the acceptability of the form of the plan is not a ruling or determination as to whether an employer's plan qualifies under Code section 401(a). However, an employer that adopts this plan may rely on this letter with respect to the qualification of its plan under Code section 401(a), as provided for in Rev. Proc. 2011-49, 2011-44 I.R.B. 608, and outlined below. The terms of the plan must be followed in operation.

Except as provided below, our opinion does not apply with respect to the requirements of Code sections 401(a)(4), 401(l), 410(b), and 414(s). Our opinion does not apply for purposes of Code section 401(a)(10)(B) and section 401(a)(16) if an employer ever maintained another qualified plan for one or more employees who are covered by this plan. For this purpose, the employer will not be considered to have maintained another plan merely because the employer has maintained another defined contribution plan(s), provided such other plan(s) has been terminated prior to the effective date of this plan and no annual additions have been credited to the account of any participant under such other plan(s) as of any date within the limitation year of this plan. Also, for this purpose, an employer is considered as maintaining another plan, to the extent that the employer maintains a welfare benefit fund defined in Code section 419(e), which provides postretirement medical benefits allocated to separate accounts for key employees as defined in Code section 419A(d)(3), or an individual medical account as defined in Code section 415(l)(2), which is part of a pension or annuity plan maintained by the employer, or a simplified employee pension plan.

Our opinion does not apply for purposes of the requirement of section 1.401(a)-1(b)(2) of the regulations applicable to a money purchase plan or target benefit plan where the normal retirement age under the employer's plan is lower than age 62.

Letter 4333

This is not a ruling or determination with respect to any language in the plan that reflects Section 3 of the Defense of Marriage Act, Pub. L. 104-199, 110 Stat. 2419 (DOMA) or U.S. v. Windsor, 133 S. Ct. 2675 (2013), which invalidated that section.

This letter is not a ruling with respect to the tax treatment to be accorded contributions which are picked up by the governmental employing unit within the meaning of section 414(h)(2) of the Internal Revenue Code.

Our opinion applies with respect to the requirements of Code section 410(b) if 100 percent of all nonexcludable employees benefit under the plan. Employers that elect a safe harbor allocation formula and a safe harbor compensation definition can also rely on an advisory letter with respect to the nondiscriminatory amounts requirement under section 401(a)(4). If this plan includes a CODA or otherwise provides for contributions subject to sections 401(k) and/or 401(m), the advisory letter can be relied on with respect to the form of the nondiscrimination tests of 401(k)(3) and 401(m)(2) if the employer uses a safe harbor compensation definition. In the case of plans described in section 401(k)(12) or (13) and/or 401(m)(11) or (12), employers may also rely on the advisory letter with respect to whether the form of the plan satisfies the requirements of those sections unless the plan provides for the safe harbor contribution to be made under another plan.


The employer may request a determination (1) as to whether the plan, considered with all related qualified plans and, if appropriate, welfare benefit funds, individual medical benefit accounts, and simplified employee pension plans, satisfies the requirements of Code section 401(a)(16) as to limitations on benefits and contributions in Code section 415 and the requirements of Code section 401(a)(10)(B) as to the top-heavy plan requirements in Code section 416; (2) with respect to whether a money purchase or target benefit plan's normal retirement age which is earlier than age 62 satisfies the requirements of section 401(a)-1(b)(2) of the Income Tax Regulations; (3) that the plan is a multiple employer plan; (4) whether there has been a partial termination; and (5) to comply with published procedures of the Service (e.g. minimum funding waiver request). The employer may request a determination letter by filing an application with Employee Plans Determinations on Form 5307, with regard to item (1) above, and Form 5300, for items (2), (3), (4) and (5), without restating for the Cumulative List in effect when the application is filed.

If you, the volume submitter practitioner, have any questions concerning the IRS processing of this case, please call the above telephone number. This number is only for use of the practitioner. Individual participants and/or adopting employers with questions concerning the plan should contact the volume submitter practitioner. The plan's adoption agreement, if applicable, must include the practitioner's address and telephone number for inquiries by adopting employers.

If you write to the IRS regarding this plan, please provide your telephone number and the most convenient time for us to call in case we need more information. Whether you call or write, please refer to the Letter Serial Number and File Folder Number shown in the heading of this letter.

You should keep this letter as a permanent record. Please notify us if you modify or discontinue sponsorship of this plan.

Sincerely Yours,



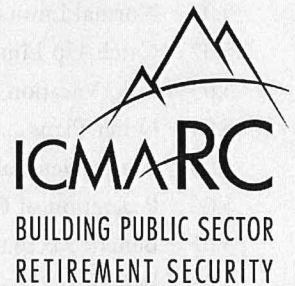
Andrew E. Zuckerman  
Director, Employee Plans Rulings and Agreements



ICMA RETIREMENT CORPORATION  
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800-669-7400  
[WWW.ICMARC.ORG](http://WWW.ICMARC.ORG)  
BRC000-212-21266-201405-W1371  
REV 3/2015



# 457 GOVERNMENTAL DEFERRED COMPENSATION PLAN AND TRUST



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# 457 GOVERNMENTAL DEFERRED COMPENSATION PLAN AND TRUST

As Amended and Restated

## Article I. Purpose

The Employer identified in Article 2.09 hereby establishes and maintains the Employer's Deferred Compensation Plan and Trust, hereafter referred to as the "Plan." The Employer is a State, political subdivision of a State, or an agency or instrumentality of a State or political subdivision, as described in Section 457(e)(1)(A) of the Internal Revenue Code ("the Code").

The primary purpose of this Plan is to provide retirement income and other deferred benefits to the Employees of the Employer and the Employees' Beneficiaries in accordance with the provisions of Section 457 of the Code.

The Employer has determined that the establishment of a deferred compensation plan for the Employees of the Employer serves the interests of the Employer by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel.

This Plan shall be an agreement solely between the Employer and participating Employees. The Plan and Trust forming a part hereof are established and shall be maintained for the exclusive benefit of Participants and their Beneficiaries. No part of the corpus or income of the Trust shall revert to the Employer or be used for or diverted to purposes other than the exclusive benefit of Participants and their Beneficiaries.

The Employer adopts the Group Trust created by the Declaration of Trust of VantageTrust Company.

## Article II. Definitions

- 2.01 **Account.** The bookkeeping account maintained for each Participant reflecting the cumulative amount of the Participant's Deferred Compensation, including any income, gains, losses, or increases or decreases in market value attributable to the Employer's investment of the Participant's Deferred Compensation, and further reflecting any distributions to the Participant or the Participant's Beneficiary and any fees or expenses charged against such Participant's Deferred Compensation.
- 2.02 **Accounting Date.** For valuing the Trust's assets, as provided in Section 6.06, each business day that the New York Stock Exchange is open for trading.
- 2.03 **Administrator.** The person or persons named in writing to carry out certain nondiscretionary administrative functions under the Plan, as hereinafter described. The Employer may remove any person as Administrator upon seventy-five (75) days' advance notice in writing to such person, in which case the Employer shall name another person or persons to act as Administrator. The Administrator may resign upon seventy-five (75) days' advance notice in writing to the Employer, in which case the Employer shall name another person or persons to act as Administrator. Unless otherwise provided in the Plan, the Administrator shall act at the direction of the Employer and shall be fully protected in acting on such direction. The Employer may enter into a separate agreement with the Administrator

detailing features of the Plan and any elections as to the administration of the Plan.

- 2.04 **Automatic Distribution Date.** April 1 of the calendar year after the year the Participant attains age 70½ or, if later, has a Severance Event.
- 2.05 **Beneficiary.** The person or persons named by the Participant in his or her Joinder Agreement who shall receive any benefits payable hereunder in the event of the Participant's death. In the event that the Participant names two or more Beneficiaries, each Beneficiary shall be entitled to equal shares of the benefits payable at the Participant's death, unless otherwise provided in the Participant's Joinder Agreement. If no Beneficiary is named in the Joinder Agreement, if the named Beneficiary predeceases the Participant, or if the named Beneficiary does not survive the Participant for a period of fifteen (15) days, then the estate of the Participant shall be the Beneficiary. If a married Participant resides in a community property state, the Participant shall be responsible for obtaining appropriate consent of his or her spouse in the event the Participant names someone other than his or her spouse as Beneficiary; provided, however that solely for purposes of this sentence, the term "spouse" shall have the meaning determined by the Employer.
- For purposes of Section 7.09(c), relating to unforeseeable emergency withdrawals, the term Primary Beneficiary means an individual who is named as a Beneficiary under the Plan and who would have an unconditional right to all or a portion of the Participant's account balance under the Plan upon the death of the Participant (or Beneficiary who has inherited an account balance).
- 2.06 **Deferred Compensation.** The amount of Includible Compensation otherwise payable to the Participant that the Participant and the Employer mutually agree to defer hereunder (including pursuant to automatic enrollment in Section 4.03), any amount credited to a Participant's Account by reason of a transfer under Section 6.09 or 6.10, a rollover under Section 6.11, or any other amount the Employer agrees to credit to a Participant's Account.
- 2.07 **Dollar Limitation.** The applicable dollar amount within the meaning of Section 457(b)(2)(A) of the Code, as adjusted for the cost-of-living in accordance with Section 457(e)(15) of the Code.
- 2.08 **Employee.** Any individual who provides services for the Employer, whether as an employee of the Employer, as defined by state law, or as an independent contractor, and who has been designated by the Employer as eligible to participate in the Plan.
- 2.09 **Employer.** \_\_\_\_\_ which is a State, political subdivision of a State, or agency or instrumentality of a State, as described in Section 457(e)(1)(A) of the Code.
- 2.10 **457 Catch-Up Dollar Limitation.** Twice the Dollar Limitation.
- 2.11 **Includible Compensation.** Includible Compensation of a Participant means "compensation," as defined in Section 415(c)(3) of the Code, for services performed for the Employer. Includible Compensation shall be determined without regard to any community property laws. For purposes of a Participant's Joinder Agreement only and not for purposes of the limitations in Article V, Includible Compensation shall include pre-tax contributions (excluding direct employer contributions) to an integral part trust of the employer providing retiree health care benefits.
- 2.12 **Joinder Agreement.** An agreement entered into between an Employee and the Employer, including any amendments or modifications thereof, that fixes the amount of Deferred Compensation, specifies a preference among the investment alternatives designated by the Employer, names the Employee's Beneficiary or Beneficiaries, and incorporates the terms, conditions, and provisions of the Plan by

reference. A Joinder Agreement includes amounts that an Employer agrees to credit to the Employee's account as "employer contributions."

- 2.13 **Normal Limitation.** The maximum amount of Deferred Compensation for any Participant for any taxable year (other than amounts referred to in Sections 6.09, 6.10, and 6.11).
- 2.14 **Normal Retirement Age.** Age 70½, unless the Participant has elected an alternate Normal Retirement Age by written instrument delivered to the Administrator prior to a Severance Event. A Participant's Normal Retirement Age determines the period during which a Participant may utilize the additional catch-up dollar limitation of Section 5.02(b) hereunder and determines the right to receive certain tax free distributions described in Section 7.14. Once a Participant has to any extent utilized the catch-up limitation of Section 5.02(b), his Normal Retirement Age may not be changed.

A Participant's alternate Normal Retirement Age may not be earlier than the earliest date that the Participant will become eligible to retire and receive immediate, unreduced retirement benefits under the Employer's basic defined benefit retirement plan covering the Participant (or a money purchase pension plan of the Employer in which the Participant also participates if the Participant is not eligible to participate in a defined benefit plan of the Employer), and may not be later than the date the Participant will attain age 70½. If the Participant will not become eligible to receive benefits under a basic defined benefit retirement plan (or money purchase pension plan, if applicable) maintained by the Employer, the Participant's alternate Normal Retirement Age may not be earlier than 65 and may not be later than age 70½ (except as provided in the next paragraph). Solely for purposes of the prior two sentences, a plan of the Employer includes a plan maintained by the state (or a political subdivision or agency or instrumentality of the state) in which the Employer is located. In no event may a Participant's normal retirement age be different than the normal retirement age under the Employer's other 457(b) plans, if any.

In the event the Plan has Participants that include qualified police or firefighters (as defined under Section 415(b)(2)(H)(ii)(I) of the Code), a normal retirement age may be designated for such qualified police or firefighters that is not earlier than age 40 or later than age 70½. Alternatively, qualified police or firefighters may be permitted to designate a normal retirement age that is between age 40 and age 70½.

- 2.15 **Participant.** Any Employee who has joined the Plan pursuant to the requirements of Article IV. Unless the context requires otherwise, the term Participant includes an Employee or former Employee of the Employer who has not yet received all of the payments of benefits to which he/she is entitled under the Plan.
- 2.16 **Percentage Limitation.** 100 percent of the Participant's Includible Compensation available to be contributed as Deferred Compensation for the taxable year.
- 2.17 **Plan Year.** The calendar year, unless otherwise elected by the Employer.
- 2.18 **Severance Event.** A severance of the Participant's employment with the Employer within the meaning of Section 457(d)(1)(A)(ii) of the Code.

In general, a Participant shall be deemed to have experienced a Severance Event for purposes of this Plan when, in accordance with the established practices of the Employer, the employment relationship is considered to have actually terminated. If the Plan does not allow participation by independent contractors of the Employer, a Participant shall also be deemed to have experienced a Severance Event for purposes of the Plan when, in accordance with the established practices of the Employer, the Participant ceases to be an employee and becomes an independent contractor. If the Plan allows participation by independent contractors of the

Employer, then in the case of a Participant who is an independent contractor of the Employer, a Severance Event shall be deemed to have occurred when the Participant's contract under which services are performed has completely expired and terminated, there is no foreseeable possibility that the Employer will renew the contract or enter into a new contract for the Participant's services, and it is not anticipated that the Participant will become an Employee of the Employer, or such other events as may be permitted under the Code.

- 2.19 **Trust.** The Trust created under Article VI of the Plan which shall consist of all compensation deferred under the Plan, plus any income and gains thereon, less any losses, expenses and distributions to Participants and Beneficiaries.

### Article III. Administration

- 3.01 **Duties of the Employer.** The Employer shall have the authority to make all discretionary decisions affecting the rights or benefits of Participants that may be required in the administration of this Plan. The Employer's decisions shall be afforded the maximum deference permitted by applicable law.
- 3.02 **Duties of Administrator.** The Administrator, as agent for the Employer and subject to oversight by the Employer, shall perform nondiscretionary administrative functions in connection with the Plan, including the maintenance of Participants' Accounts, the provision of periodic reports of the status of each Account, and the disbursement of benefits on behalf of the Employer in accordance with the provisions of this Plan.

### Article IV. Participation in the Plan

- 4.01 **Initial Participation.** An Employee that the Employer elects to be eligible for the Plan may become a Participant by entering into a Joinder Agreement (or by being treated as entering into a Joinder Agreement pursuant to Section 4.03) prior to the beginning of the calendar month in which the Joinder Agreement is to become effective to defer compensation not yet paid or made available, or such other date as may be permitted under the Code. A new employee may defer compensation in the calendar month during which he or she first becomes an employee if a Joinder Agreement is entered into on or before the first day on which the employee performs services for the Employer.
- 4.02 **Amendment of Joinder Agreement.** A Participant may amend an executed Joinder Agreement to change the amount of Includible Compensation not yet paid or made available that is to be deferred (including the reduction of such future deferrals to zero). Such amendment shall become effective as of the beginning of the calendar month commencing after the date the amendment is executed, or such other date as may be permitted under the Code. A Participant may at any time amend his or her Joinder Agreement to change the Beneficiary or specify investments, and such amendment shall become effective immediately.
- 4.03 **Automatic Enrollment.**
- (a) *If elected by the Employer, the Plan will provide for automatic enrollment.* In this case, an Employee will become a Participant, shall be treated as entering into a Joinder Agreement, and shall have compensation deferred, at the amount equal to the percentage of compensation specified by the Employer, unless the Employee affirmatively elects a different amount (or elects not to enter into a Joinder Agreement) within the initial "opt-out" period specified by the Employer. The "opt-out" period shall be no less than thirty (30) days and no more than ninety (90) days. The Participant will be treated as having entered into a Joinder Agreement at the end of such opt-out period and Default Elective Deferrals shall begin on the first pay period of the following calendar month. Unless otherwise elected by the Employer, these



automatic enrollment provisions will also apply when an Employee is rehired. An Employee who becomes a Participant pursuant to this Section 4.03 may amend the Joinder Agreement as provided in Section 4.02.

(b) **Definitions.** *The following definitions shall apply for this Section 4.03:*

- (1) **Eligible Automatic Contribution Arrangement (“EACA”).** An automatic contribution arrangement that satisfies the uniformity and notice requirements of this Section 4.03.
- (2) **Automatic Contribution Arrangement.** An arrangement under which, in the absence of an affirmative election by a Covered Employee, a specified percentage of compensation will be withheld from the Covered Employee’s pay and contributed to the Plan as Deferred Compensation.
- (3) **Covered Employee.** A Participant identified by the Employer as being covered under the EACA. An independent contractor cannot be a Covered Employee.
- (4) **Default Elective Deferrals.** The Deferred Compensation contributed to the Plan under the EACA on behalf of Covered Employees who do not have an affirmative election in effect regarding Deferred Compensation.
- (5) **Default Rate.** The percentage of a Covered Employee’s compensation contributed to the Plan as a Default Elective Deferral, per pay period, for a given Plan Year. The Default Rate is specified by the Employer.

(c) **Rules of Application**

- (1) Default Elective Deferrals will be made on behalf of Covered Employees who do not have an affirmative election in effect regarding Deferred Compensation. The amount of Default Elective Deferrals made for a Covered Employee each pay period is equal to the Default Rate multiplied by the Covered Employee’s compensation for that pay period. If the Employer elects, a Covered Employee’s Default Elective Deferrals will increase each Plan Year by a designated percentage, per pay period, beginning with the second Plan Year that begins after the Default Rate first applies to the Covered Employee. The increase will be effective beginning with the first pay period that begins in such Plan Year.
- (2) A Covered Employee will have a reasonable opportunity after receipt of the notice described in Section 4.03(e) to make an affirmative election regarding Deferred Compensation (either to have no Deferred Compensation contributed or to have a different amount of Deferred Compensation contributed) before Default Elective Deferrals are made on the Covered Employee’s behalf. Default Elective Deferrals being made on behalf of a Covered Employee will cease as soon as administratively feasible after the Covered Employee makes an affirmative election. An affirmative election to have no Deferred Compensation contributed, made no later than ninety (90) days after Default Elective Deferrals are first withheld from a Covered Employee’s pay, shall be deemed a request for distribution of the Covered Employee’s Default Elective Deferrals under Section 4.03(f) of the Plan, unless the Covered Employee affirmatively elects otherwise.

(d) **Uniformity Requirement**

- (1) Except as provided in (2), below, if the Employer has elected to have Covered Employees’ Default

Elective Deferrals increase each Plan Year by a designated percentage, the same percentage of compensation will be withheld as a Default Elective Deferral from all Covered Employees subject to the Default Rate.

- (2) Default Elective Deferrals will be reduced or stopped to meet the limitations under Section 457(b) of the Code, and to satisfy any suspension period required after a hardship distribution from another plan maintained by the Employer.
- (e) **Notice Requirement**
- (1) At least thirty (30) days, but not more than ninety (90) days, before the beginning of the Plan Year, the Employer will provide each Covered Employee a comprehensive notice of the Covered Employee's rights and obligations under the EACA, written in a manner calculated to be understood by the average Covered Employee. If an employee becomes a Covered Employee after the 90th day before the beginning of the Plan Year and does not receive the notice for that reason, the notice will be provided no more than ninety (90) days before the employee becomes a Covered Employee but no later than the date the employee becomes a Covered Employee.
  - (2) The notice must accurately describe:
    - (i) the amount of Default Elective Deferrals that will be made on the Covered Employee's behalf in the absence of an affirmative election;
    - (ii) the Covered Employee's right to elect to have no Deferred Compensation deferred on his or her behalf or to have a different amount of Deferred Compensation deferred;
    - (iii) how Default Elective Deferrals will be invested in the absence of the Covered Employee's investment instructions; and
    - (iv) the Covered Employee's right to make a withdrawal of Default Elective Deferrals and procedures for making such a withdrawal.
- (f) **Withdrawal of Default Elective Deferrals**
- (1) No later than ninety (90) days after Default Elective Deferrals are first withheld from a Covered Employee's pay, the Covered Employee may request a distribution of his or her Default Elective Deferrals. No spousal consent is required for withdrawal under this provision.
  - (2) The amount distributed from the Plan upon the Covered Employee's request is equal to the amount of Default Elective Deferrals made through the earlier of (a) the pay date for the second payroll period that begins after the Covered Employee's withdrawal request and (b) the first pay date that occurs after thirty (30) days following the Covered Employee's request, plus attributable earnings through the date of distribution. Any fee charged to the Covered Employee for the withdrawal may not be greater than any other fee charged for a cash distribution.
  - (3) Unless the Covered Employee affirmatively elects otherwise, any withdrawal request will be treated as an affirmative election to stop having Deferred Compensation deferred on the Covered Employee's behalf as of the date specified in Section 4.03(f)(2) above.

- (4) Default Elective Deferrals distributed pursuant to this Section 4.03(f) are not counted towards the dollar limitation on Deferred Compensation contained in Section 457(b) of the Code. Matching contributions that might otherwise be allocated to a Covered Employee's account on behalf of Default Elective Deferrals will not be allocated to the extent the Covered Employee withdraws such Deferred Compensation pursuant to this Section 4.03(f) and any matching contributions already made on account of Default Elective Deferrals that are later withdrawn pursuant to this Section 4.03(f) will be forfeited.

4.04 **Vesting of Employer Contributions.** If a Participant's Joinder Agreement provides for the Employer to credit Deferred Compensation to a Participant's Account in the form of "employer contributions," such credits shall be immediately vested, except as provided in Section 4.03(f)(4).

## Article V. Limitations on Deferrals

5.01 **Normal Limitation.** Except as provided in Section 5.02, the maximum amount of Deferred Compensation for any Participant for any taxable year, shall not exceed the lesser of the Dollar Limitation or the Percentage Limitation.

5.02 **Catch-Up Limitations.**

- (a) **Catch-up Contributions for Participants Age 50 and Over:** A Participant who has attained the age of 50 before the close of the taxable year, and with respect to whom no other elective deferrals may be made to the Plan for the Plan Year by reason of the Normal Limitation of Section 5.01, may enter into a Joinder Agreement to make elective deferrals in addition to those permitted by the Normal Limitation in an amount not to exceed the lesser of:
  - (1) The applicable dollar amount as defined in Section 414(v)(2)(B) of the Code, as adjusted for the cost-of-living in accordance with Section 414(v)(2)(C) of the Code; or
  - (2) The excess (if any) of:
    - (i) The Participant's Includible Compensation for the year, or
    - (ii) Any other elective deferrals of the Participant for such year which are made without regard to this Section 5.02(a).

An additional contribution made pursuant to this Section 5.02(a) shall not, with respect to the year in which the contribution is made, be subject to any otherwise applicable limitation contained in Section 5.01 above, or be taken into account in applying such limitation to other contributions or benefits under the Plan or any other plan. This Section 5.02(a) shall not apply in any year to which a higher limit under Section 5.02(b) applies.

- (b) **Last Three Years Catch-up Contribution:** For each of the last three (3) taxable years for a Participant ending the year before the year he or she attains (or will attain) Normal Retirement Age, the maximum amount of Deferred Compensation shall be the lesser of:
  - (1) The 457 Catch-Up Dollar Limitation, or
  - (2) The sum of

- (i) The Normal Limitation for the taxable year, and
- (ii) The Normal Limitation for each prior taxable year of the Participant commencing after 1978 less the amount of the Participant's Deferred Compensation for such prior taxable years. A prior taxable year shall be taken into account under the preceding sentence only if (x) the Participant was eligible to participate in the Plan for such year, and (y) compensation (if any) deferred under the Plan (or such other plan) was subject to the Normal Limitation.

Should the maximum Deferred Compensation under this Section 5.02(b) be lower in any of the three (3) years than the maximum Deferred Compensation under Section 5.02(a), the Participant may instead defer amounts under 5.02(a) if otherwise permitted and no further deferrals under Section 5.02(b) will be permitted.

- 5.03 **Sick, Vacation and Back Pay.** If the Employer so elects, a Participant may defer all or a portion of the value of the Participant's accumulated sick pay, accumulated vacation pay and/or back pay, provided that such deferral does not cause total deferrals on behalf of the Participant to exceed the Dollar Limitation or Percentage Limitation (including any catch-up dollar limitation) for the year of deferral. The election to defer such sick, vacation and/or back pay must be made in a manner and at a time permitted under Section 1.457-4(d) of the Income Tax Regulations.

For Plan Years beginning before January 1, 2009, pursuant to proposed IRS regulations issued under Section 415 of the Code, the Plan may permit deferrals from compensation, including sick, vacation and back pay, so long as the amounts are paid within 2½ months following severance from employment and the other requirements of Sections 457(b) and 415 of the Code are met. For Plan Years beginning on or after January 1, 2009, pursuant to final IRS regulations issued under Section 415 of the Code, the Plan may permit deferrals from compensation, including sick, vacation and back pay, so long as the amounts are paid by the later of: (i) 2½ months following severance from employment, and (ii) the end of the calendar year that includes the date of such severance from employment, and the other requirements of Sections 457(b) and 415 of the Code are met. Additionally, the agreement to defer such amounts must be entered into prior to the first day of the month in which the amounts otherwise would be paid or made available.

- 5.04 **Other Plans.** Notwithstanding any provision of the Plan to the contrary, the amount excludible from a Participant's gross income under this Plan or any other eligible deferred compensation plan under Section 457(b) of the Code shall not exceed the limits set forth in Sections 457(b) and 414(v) of the Code.

- 5.05 **Excess Deferrals.** Any amount that exceeds the maximum Dollar Limitation or Percentage Limitation (including any applicable catch-up dollar limitation) for a taxable year, shall constitute an excess deferral for that taxable year. Any excess deferral shall be distributed to the Participant in accordance with the requirements for excess deferrals under the Code and Section 1.457-4(e) of the Income Tax Regulations or other applicable Internal Revenue Service guidance.

- 5.06 **Protection of Person Who Serves in a Uniformed Service.** An Employee whose employment is interrupted by qualified military service under Section 414(u) of the Code or who is on leave of absence for qualified military service under Section 414(u) of the Code may elect to contribute additional Deferred Compensation upon resumption of employment with the Employer equal to the maximum Deferred Compensation that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Includible Compensation) without the interruption or leave, reduced by Deferred Compensation, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five (5) years following the resumption of employment (or, if sooner, for a period equal to three (3) times the period of the interruption or leave).

- 5.07 **Benefit Accruals with Respect to Qualified Military Service.** Notwithstanding any provision of the Plan to the contrary, if the Employer so elects, Participants who die or become Disabled while performing qualified military service (as defined in Code Section 414(u)) with respect to the Employer shall receive Plan contributions as permitted under Code Section 414(u)(9).
- 5.08 **Benefit Accruals with Respect to Differential Wage Payments.** Unless otherwise elected by the Employer, Plan contributions shall be made based on differential wage payments (as such term is defined in Section 3401(h)(2) of the Code).

## Article VI. Trust and Investment of Accounts

- 6.01 **Investment of Deferred Compensation.** A Trust described in Section 457(g) of the Code is hereby created to hold all the assets of the Plan for the exclusive benefit of Participants and Beneficiaries, except that expenses and taxes may be paid from the Trust as provided in Section 6.03. The trustee shall be the Employer or such other person that agrees with the consent of the Employer to act in that capacity hereunder.
- 6.02 **Investment Powers.** The trustee shall have the powers listed in this Section with respect to investment of Trust assets, except to the extent that the investment of Trust assets is directed by Participants, pursuant to Section 6.05 or to the extent that such powers are restricted by applicable law.
- (a) To invest and reinvest the Trust without distinction between principal and income in common or preferred stocks, shares of regulated investment companies and other mutual funds, bonds, loans, notes, debentures, certificates of deposit, contracts with insurance companies including but not limited to insurance, individual or group annuity, deposit administration, guaranteed interest contracts, and deposits at reasonable rates of interest at banking institutions including but not limited to savings accounts and certificates of deposit. Assets of the Trust may be invested in securities that involve a higher degree of risk than investments that have demonstrated their investment performance over an extended period of time.
  - (b) To invest and reinvest all or any part of the assets of the Trust in any common, collective or commingled trust fund that is maintained by a bank or other institution and that is available to Employee plans described under Sections 457 or 401 of the Code, or any successor provisions thereto, and during the period of time that an investment through any such medium shall exist, to the extent of participation of the Plans, the declaration of trust of such commonly collective, or commingled, trust fund shall constitute a part of this Plan.
  - (c) To invest and reinvest all or any part of the assets of the Trust in any group annuity, deposit administration or guaranteed interest contract issued by an insurance company or other financial institution on a commingled or collective basis with the assets of any other 457 plan or trust qualified under Section 401(a) of the Code or any other plan described in Section 401(a)(24) of the Code, and such contract may be held or issued in the name of the Administrator, or such custodian as the Administrator may appoint, as agent and nominee for the Employer. During the period that an investment through any such contract shall exist, to the extent of participation of the Plan, the terms and conditions of such contract shall constitute a part of the Plan.
  - (d) To hold cash awaiting investment and to keep such portion of the Trust in cash or cash balances, without liability for interest, in such amounts as may from time to time be deemed to be reasonable and necessary to meet obligations under the Plan or otherwise to be in the best interests of the Plan.

- (e) To hold, to authorize the holding of, and to register any investment to the Trust in the name of the Plan, the Employer, or any nominee or agent of any of the foregoing, including the Administrator, or in bearer form, to deposit or arrange for the deposit of securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by any other person, and to organize corporations or trusts under the laws of any jurisdiction for the purpose of acquiring or holding title to any property for the Trust, all with or without the addition of words or other action to indicate that property is held in a fiduciary or representative capacity but the books and records of the Plan shall at all times show that all such investments are part of the Trust.
- (f) Upon such terms as may be deemed advisable by the Employer or the Administrator, as the case may be, for the protection of the interests of the Plan or for the preservation of the value of an investment, to exercise and enforce by suit for legal or equitable remedies or by other action, or to waive any right or claim on behalf of the Plan or any default in any obligation owing to the Plan, to renew, extend the time for payment of, agree to a reduction in the rate of interest on, or agree to any other modification or change in the terms of any obligation owing to the Plan, to settle, compromise, adjust, or submit to arbitration any claim or right in favor of or against the Plans to exercise and enforce any and all rights of foreclosure, bid for property in foreclosure, and take a deed in lieu of foreclosure with or without paying consideration therefor, to commence or defend suits or other legal proceedings whenever any interest of the Plan requires it, and to represent the Plan in all suits or legal proceedings in any court of law or equity or before any body or tribunal.
- (g) To employ suitable consultants, depositories, agents, and legal counsel on behalf of the Plan.
- (h) To open and maintain any bank account or accounts in the name of the Plan, the Employer, or any nominee or agent of the foregoing, including the Administrator, in any bank or banks.
- (i) To do any and all other acts that may be deemed necessary to carry out any of the powers set forth herein.

The trustee may authorize the Administrator to exercise these powers as an agent for the trustee, subject to the oversight of the trustee.

- 6.03 **Taxes and Expenses.** All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon the Plan, or in respect to the Trust, or the income thereof, and all commissions or acquisitions or dispositions of securities and similar expenses of investment and reinvestment of the Trust, shall be paid from the Trust. Such reasonable compensation of the Administrator, as may be agreed upon from time to time by the Employer and the Administrator, and reimbursement for reasonable expenses incurred by the Administrator in performance of its duties hereunder (including but not limited to fees for legal, accounting, investment and custodial services) shall also be paid from the Trust.
- 6.04 **Payment of Benefits.** The payment of benefits from the Trust in accordance with the terms of the Plan may be made by the Administrator, or by any custodian or other person so authorized by the Employer to make such disbursement. The Administrator, custodian or other person shall not be liable with respect to any distribution of Trust assets made at the direction of the Employer.
- 6.05 **Investment Funds.** In accordance with uniform and nondiscriminatory rules established by the Employer and the Administrator, the Participant may direct his or her Accounts to be invested in one (1) or more investment funds available under the Plan (including a fund or investment that consists of or is available through an open brokerage window); provided, however, that the Participant's investment directions shall

not violate any investment restrictions established by the Employer. Neither the Employer, the Administrator, nor any other person shall be liable for any losses incurred by virtue of following such directions or with any reasonable administrative delay in implementing such directions.

- 6.06 Valuation of Accounts.** As of each Accounting Date, the Plan assets held in each investment fund offered shall be valued at fair market value and the investment income and gains or losses for each fund shall be determined. Such investment income and gains or losses shall be allocated proportionately among all Account balances on a fund-by-fund basis. The allocation shall be in the proportion that each such Account balance as of the immediately preceding Accounting Date bears to the total of all such Account balances as of that Accounting Date. For purposes of this Article, all Account balances include the Account balances of all Participants and Beneficiaries.
- 6.07 Participant Loan Accounts.** Participant loan accounts shall be invested in accordance with Section 8.03 of the Plan. Such Accounts shall not share in any investment income and gains or losses of the investment funds described in Sections 6.05 and 6.06.
- 6.08 Crediting of Accounts.** The Participant's Account shall reflect the amount and value of the investments or other property obtained by the Employer through the investment of the Participant's Deferred Compensation pursuant to Sections 6.05 and 6.06. It is anticipated that the Employer's investments with respect to a Participant will conform to the investment preference specified in the Participant's Joinder Agreement, but nothing herein shall be construed to require the Employer to make any particular investment of a Participant's Deferred Compensation. Each Participant shall receive periodic reports, not less frequently than annually, showing the then current value of his or her Account.
- 6.09 Post-Severance Transfers Among Eligible Deferred Compensation Plans.**
- (a) *Incoming Transfers:* A transfer may be accepted from an eligible deferred compensation plan maintained by another employer and credited to a Participant's or Beneficiary's Account under the Plan if:
- (1) In the case of a transfer for a Participant, the Participant has had a Severance Event with that employer and become an Employee of the Employer;
  - (2) The other employer's plan provides that such transfer will be made; and
  - (3) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer.

The Employer may require such documentation from the predecessor plan as it deems necessary to effectuate the transfer in accordance with Section 457(e)(10) of the Code, to confirm that such plan is an eligible deferred compensation plan within the meaning of Section 457(b) of the Code, and to assure that transfers are provided for under such plan. The Employer may refuse to accept a transfer in the form of assets other than cash, unless the Employer and the Administrator agree to hold such other assets under the Plan.

- (b) *Outgoing Transfers:* An amount may be transferred to an eligible deferred compensation plan maintained by another employer, and charged to a Participant's or Beneficiary's Account under this Plan, if:
- (1) In the case of a transfer for a Participant, the Participant has a Severance Event with the Employer and becomes an employee of the other employer;
  - (2) The other employer's plan provides that such transfer will be accepted;

- (3) The Participant or Beneficiary and the employers have signed such agreements as are necessary to assure that the Employer's liability to pay benefits to the Participant has been discharged and assumed by the other employer; and
- (4) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer.

The Employer may require such documentation from the other plan as it deems necessary to effectuate the transfer, to confirm that such plan is an eligible deferred compensation plan within the meaning of Section 457(b) of the Code, and to assure that transfers are provided for under such plan. Such transfers shall be made only under such circumstances as are permitted under Section 457 of the Code and the regulations thereunder.

#### 6.10 Transfers Among Eligible Deferred Compensation Plans of the Employer.

- (a) *Incoming Transfers.* A transfer may be accepted from another eligible deferred compensation plan maintained by the Employer and credited to a Participant's or Beneficiary's Account under the Plan if:
  - (1) The Employer's other plan provides that such transfer will be made;
  - (2) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer; and
  - (3) The Participant or Beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in the Plan unless the Participant or Beneficiary is performing services for the Employer.
- (b) *Outgoing Transfers.* An amount may be transferred to another eligible deferred compensation plan maintained by the Employer and credited to a Participant's or Beneficiary's Account under the Plan if:
  - (1) The Employer's other plan provides that such transfer will be accepted;
  - (2) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer; and
  - (3) The Participant or Beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in the Employer's other eligible deferred compensation plan unless the Participant or Beneficiary is performing services for the Employer.

#### 6.11 Eligible Rollover Distributions.

- (a) *Incoming Rollovers:* An eligible rollover distribution may be accepted from an eligible retirement plan and credited to a Participant's Account under the Plan. The Employer may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of Section 402(c)(8)(B) of the Code. The Plan shall separately account (in one (1) or more separate accounts) for eligible rollover distributions from any eligible retirement plan.



(b) *Outgoing Rollovers:* Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(c) *Definitions:*

- (1) **Eligible Rollover Distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's named beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Sections 401(a)(9) and 457(d)(2) of the Code; and any distribution made as a result of an unforeseeable emergency of the employee. Subject to Section 9.04 (related to rollovers of Roth amounts), for purposes of distributions from other eligible retirement plans rolled over into this Plan, the term eligible rollover distribution shall not include the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), such as after-tax contributions.
- (2) **Eligible Retirement Plan:** An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Sections 403(a) or 403(b) of the Code, a qualified trust described in Section 401(a) of the Code, or an eligible deferred compensation plan described in Section 457(b) of the Code which is maintained by an eligible governmental employer described in Section 457(e)(1)(A) of the Code, that accepts the distributee's eligible rollover distribution. Effective for distributions after December 31, 2007, a Participant may elect to have any portion of an Eligible Rollover Distribution paid directly to a Roth IRA described in Section 408A of the Code. Such a direct payment, as a qualified rollover distribution described in Section 408A(e)(1) of the Code, would be taxable to the Participant to the extent required by Section 408A(d)(3) of the Code.
- (3) **Distributee:** A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. For distributions after December 31, 2006 (unless the Employer elected a different effective date in a prior plan document, a distributee includes the Employee's or former Employee's nonspouse designated Beneficiary, in which case, the distribution can only be transferred to a traditional or Roth IRA established on behalf of the nonspouse designated Beneficiary, in the Participant's name, for the purpose of receiving the distribution.
- (4) **Direct Rollover:** A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(d) *Rollover by a Non-Spouse Designated Beneficiary*

- (1) Unless otherwise elected by the Employer, for distributions in Plan Years beginning after December 31, 2006 but on or before December 31, 2009, a non-spouse Beneficiary who qualifies as a

“designated beneficiary” under Code Section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one (1) or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.

- (2) Notwithstanding subsection (1), for distributions in Plan Years beginning after December 31, 2009, a non-spouse Beneficiary who qualifies as a “designated beneficiary” under Code Section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one (1) or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.
- (3) Notwithstanding anything herein to the contrary, a death benefit distribution shall not be eligible for transfer to an inherited IRA to the extent such distribution is a required minimum distribution under Code Section 401(a)(9).
- (4) If the dates noted above are modified by the Employer’s prior plan document, the December 31, 2009 dates in subsections (1) and (2), above, will be modified, as applicable, by the Employer’s prior plan document.

**6.12 Trustee-to-Trustee Transfers to Purchase Permissive Service Credit.** All or a portion of a Participant’s Account may be transferred directly to the trustee of a defined benefit governmental plan (as defined in Section 414(d) of the Code) if such transfer is (a) for the purchase of permissive service credit (as defined in Section 415(n)(3)(A) of the Code) under such plan, or (b) a repayment to which Section 415 of the Code does not apply by reason of subsection (k)(3) thereof, within the meaning of Section 457(e)(17) of the Code.

**6.13 Treatment of Distributions of Amounts Previously Rolled Over From 401(a) and 403(b) Plans and IRAs.** For purposes of Section 72(t) of the Code, a distribution from this Plan shall be treated as a distribution from a qualified retirement plan described in Section 4974(c)(1) of the Code to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in Section 4974(c) of the Code).

**6.14 Employer Liability.** In no event shall the Employer’s liability to pay benefits to a Participant under this Plan exceed the value of the amounts credited to the Participant’s Account; neither the Employer nor the Administrator shall be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

## Article VII. Benefits

**7.01 Retirement Benefits and Election on Severance Event.**

- (a) *General Rule:* Except as otherwise provided in this Article VII, the distribution of a Participant’s Account shall commence as of a Participant’s Automatic Distribution Date, and the distribution of such benefits shall be made in accordance with one of the payment options described in Section 7.02. Notwithstanding the foregoing, but subject to the following paragraphs of this Section 7.01, the Participant may elect following a Severance Event to have the distribution of benefits commence on a fixed determinable date other than that described in the preceding sentence, but not later than April 1 of

the year following the year of the Participant's retirement or attainment of age 70½, whichever is later. The Participant's right to change his or her election with respect to commencement of the distribution of benefits shall not be restrained by this Section 7.01. Notwithstanding the foregoing, the Administrator, in order to ensure the orderly administration of this provision, may establish a deadline after which such election to defer the commencement of distribution of benefits shall not be allowed for those benefits administered by Administrator.

- (b) *Loans*: Notwithstanding the foregoing provisions of this Section 7.01, no election to defer the commencement of benefits after a Severance Event shall operate to defer the distribution of any amount in the Participant's loan account in the event of a default of the Participant's loan.

**7.02 Payment Options.** As provided in Sections 7.01 and 7.04, a Participant may elect to have the value of the Participant's Account distributed in accordance with one of the following payment options, provided that such option is consistent with the limitations set forth in Section 7.03:

- (a) Equal monthly, quarterly, semi-annual or annual payments in an amount chosen by the Participant, continuing until his or her Account is exhausted;
- (b) One (1) lump-sum payment;
- (c) Approximately equal monthly, quarterly, semi-annual or annual payments, calculated to continue for a period certain chosen by the Participant;
- (d) Annual Payments equal to the minimum distributions required under Section 401(a)(9) of the Code, including the incidental death benefit requirements of Section 401(a)(9)(G), over the life expectancy of the Participant or over the life expectancies of the Participant and his or her Beneficiary;
- (e) Payments equal to payments made by the issuer of a retirement annuity policy acquired by the Employer;
- (f) A split distribution under which payments under options (a), (b), (c) or (e) commence or are made at the same time, as elected by the Participant under Section 7.01, provided that all payments commence (or are made) by the latest benefit commencement date permitted under Section 7.01;
- (g) Any other payment option elected by the Participant and agreed to by the Employer and Administrator.

A Participant's selection of a payment option under Subsections (a), (c), or (g) above may include the selection of an automatic annual cost-of living increase. Such increase will be based on the rise in the Consumer Price Index for All Urban Consumers (CPI-U) from the third quarter of the last year in which a cost-of-living increase was provided to the third quarter of the current year. Any increase will be made in periodic payment checks beginning the following January.

**7.03 Limitation on Options.** A Participant may not select a payment option under subsections 7.02(a) or (c) if the amount of any such periodic payment is less than \$100. No payment option may be selected by a Participant under Sections 7.02 or 7.04 unless it satisfies the requirements of Sections 401(a)(9) and 457(d)(2) of the Code, including the requirement that payments commencing before the death of the Participant shall satisfy the incidental death benefit requirements under Section 401(a)(9)(G) of the Code.

**7.04 Minimum Required Distributions.** Notwithstanding any provision of the Plan to the contrary, the Plan shall comply with the minimum required distribution rules set forth in Sections 457(d)(2) and 401(a)(9) of the

Code, including the incidental death benefit requirements of Section 401(a)(9)(G) of the Code.

- (a) *Application of Minimum Distribution Requirements:* The minimum distribution requirements of Section 401(a)(9) of the Code shall only apply to the Plan to the extent that such requirements are applicable by law for a year. Pursuant to the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), required minimum distributions were suspended for 2009.
- (b) *Special Rule for Scheduled Installment Payments:* All installment payments scheduled to be distributed to a Participant prior to the effective date of a suspension of the required minimum distribution provisions of Code Section 401(a)(9) shall be distributed as scheduled unless the Participant affirmatively elects to have the payments stopped. Notwithstanding the foregoing, for purposes of this Section 7.04(b), the effective date of the suspension of the required minimum distribution provisions for 2009 shall be deemed January 6, 2009.

#### 7.05 Time and Manner of Distribution.

- (a) *Automatic Distribution Date.* The Automatic Distribution Date is April 1 of the year that follows the later of (1) the calendar year the Participant attains age 70½ or (2) retires due to a Severance Event. If the Participant postpones the required distribution due in the calendar year he or she attains age 70½ or severs employment, to the Automatic Distribution Date, the second required minimum distribution must be taken by the end of that year. The Participant's Account will be distributed, or begin to be distributed to the Participant no later than the Participant's Automatic Distribution Date.
- (b) *Death of Participant Before Distributions Begin.* Except as otherwise permitted by Section 401(a)(9) of the Code, if the Participant dies before distributions begin, the Participant's Account will be distributed, or begin to be distributed, no later than as follows:
  - (1) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
  - (2) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
  - (3) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's Account will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
  - (4) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subparagraph 7.05(b), other than subsection 7.05(b)(1), will apply as if the surviving spouse were the Participant.

Distributions are considered to begin on the Participant's Automatic Distribution Date for purposes of this Section 7.05 and Section 7.07, unless Section 7.05(b)(4) applies. If Section 7.05(b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 7.05(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Automatic Distribution Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 7.05(b)(1)), the date distributions are considered to begin is the date distributions actually

commence.

- (c) *Death of Participant On or After Distributions Begin.* Except as otherwise permitted by Section 401(a)(9) of the Code, if the Participant dies on or after distributions begin and before depleting his or her Account, distributions must commence to the Designated Beneficiary by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (d) *Forms of Distribution.* Unless the Participant's Account is distributed in the form of an annuity purchased from an insurance company or in a single-sum on or before the Automatic Distribution Date, as of the first Distribution Calendar Year, distributions will be made in accordance with Sections 7.06 and 7.07. If the Participant's Account is distributed in the form of an annuity contract purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Income Tax Regulations.

#### 7.06 Required Minimum Distributions During Participant's Lifetime.

- (a) *Amount of Required Minimum Distribution for Each Distribution Calendar Year.* During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:
  - (1) the quotient obtained by dividing the Participant's Account Balance by the distribution period set forth in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, Q&A-2, of the Income Tax Regulations using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or
  - (2) if the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, Q&A-3, of the Income Tax Regulations using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.
- (b) *Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.* Required minimum distributions will be determined under this Section 7.06 beginning with the first Distribution Calendar Year and continuing up to, and including, the Distribution Calendar Year that includes the Participant's date of death.

#### 7.07 Required Minimum Distributions After Participant's Death.

- (a) *Death On or After Date Distributions Begin.*
  - (1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:
    - (i) The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
    - (ii) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years

after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(iii) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) *Death Before Date Distributions Begin.*

(1) Participant Survived by Designated Beneficiary. Except as permitted by Section 401(a)(9) of the Code, if the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in Section 7.07(a).

(2) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire Account will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 7.05(b)(1), this Section 7.07(b) will apply as if the surviving spouse were the Participant.

## 7.08 Definitions.

(a) *Designated Beneficiary.* The individual who is a designated by the Participant (or the Participant's surviving spouse) as the Beneficiary of the Participant's interest under the Plan and who is the Designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4 of the Income Tax Regulations.

(b) *Distribution Calendar Year.* A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Automatic Distribution Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Sections 7.05(b) and (c). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Automatic Distribution Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Automatic Distribution Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

- (c) *Life Expectancy.* Life Expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A-1, of the Income Tax Regulations.
- (d) *Participant's Account Balance.* The Account Balance as of the last Accounting Date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) increased by the amount of any contribution made and allocated or forfeitures allocated to the Account Balance as of dates in the valuation calendar year after the Accounting Date and decreased by distributions made in the valuation calendar year after the Accounting Date. The Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

#### 7.09 Unforeseeable Emergencies.

- (a) In the event an unforeseeable emergency occurs, a Participant, or a Beneficiary with a current unconditional right to all or a portion of the Participant's account balance under the Plan following the death of the Participant, may, unless otherwise elected by the Employer, apply to the Employer (or the Administrator, acting on behalf of the Employer) to receive that part of the value of his or her Account that is reasonably needed to satisfy the emergency need. If such an application is approved by the Employer (or the Administrator, acting on behalf of the Employer), the Participant or Beneficiary shall be paid only such amount as the Employer or Administrator deems necessary to meet the emergency need, but payment shall not be made to the extent that the financial hardship may be relieved through cessation of deferral under the Plan, insurance or other reimbursement, or liquidation of other assets to the extent such liquidation would not itself cause severe financial hardship.
- (b) An unforeseeable emergency shall be deemed to involve only circumstances of severe financial hardship of a Participant or Beneficiary resulting from an illness or accident of the Participant or Beneficiary, the Participant's or Beneficiary's spouse, or the Participant's or Beneficiary's dependent (as defined in Section 152 of the Code, and, for taxable years beginning on or after January 1, 2005, without regard to Sections 152(b)(1), (b)(2), and (d)(1)(B) of the Code); loss of the Participant's or Beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant or the Beneficiary. For example, the imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. The need to pay for the funeral expenses of a spouse or a dependent (as defined in Section 152 of the Code, and, for taxable years beginning on or after January 1, 2005, without regard to Sections 152(b)(1), (b)(2), and (d)(1)(B) of the Code) may also constitute an unforeseeable emergency. In addition, loss of property due to theft, legal bills involving criminal charges, and lost or reduced wages of the Participant's or Beneficiary's household may constitute an unforeseeable emergency if extraordinary, unforeseeable, and arising as a result of events beyond the control of the Participant or Beneficiary and otherwise meeting the conditions described in Section 7.09(a). Except as otherwise specifically provided in this Section 7.09(b), the purchase of a home and the payment of college tuition are not unforeseeable emergencies.
- (c) Unless otherwise elected by the Employer, the determination of any unforeseeable emergency will be expanded to include circumstances of severe financial hardship resulting from an illness or accident of a Primary Beneficiary or other similar extraordinary and unforeseeable circumstances of a Primary Beneficiary that result in a severe financial hardship.

7.10 **In-Service Distribution of Rollover Contributions.** Effective January 1, 2006, the Employer may elect to allow Participants to receive an in-service distribution of amounts attributable to rollover contributions to the Plan. If the Employer has elected to make such distributions available, a Participant that has a separate account attributable to rollover contributions to the Plan may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

7.11 **In-Service Distribution to Participants Age 70½ or Older.** Unless otherwise elected by the Employer, a Participant who has reached age 70½ and has not yet had a Severance Event, may, at any time, request a distribution of all or a part of his or her Account.

7.12 **Distribution of De Minimis Accounts.** Notwithstanding the foregoing provisions of this Article VII:

(a) *Mandatory Distribution:* If the value of a Participant's Account is less than \$1,000, the Participant's Account shall be paid to the Participant in a single lump sum distribution, provided that:

- (1) No amount has been deferred under the Plan with respect to the Participant during the 2-year period ending on the date of the distribution; and
- (2) There has been no prior distribution under the Plan to the Participant pursuant to this Section 7.12.

Notwithstanding any other provisions of the Plan to the contrary, if the amount of a Beneficiary's Account following notification of a Participant's death is less than \$1,000, the Beneficiary's Account may be paid to the Beneficiary in a single lump sum distribution.

(b) *Voluntary Distribution:* If the value of the Participant's Account is at least \$1,000 but not more than the dollar limit under Section 411(a)(11)(A) of the Code, the Participant may elect to receive his or her entire Account in a lump sum payment if:

- (1) No amount has been deferred under the Plan with respect to the Participant during the 2-year period ending on the date of the distribution; and
- (2) There has been no prior distribution under the Plan to the Participant pursuant to this Section 7.12.

7.13 **Deemed Severance from Employment.**

(a) Unless otherwise elected by the Employer, effective January 1, 2009, a Participant shall be deemed to have a severance from employment solely for purposes of eligibility to receive distributions from the Plan during any period the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) for more than thirty (30) days.

(b) If a Participant receives a distribution pursuant to Section 7.13(a), then during the six-month period beginning on the date of the distribution the Participant shall not be permitted to defer compensation.

(c) If a Participant receives a distribution which could be attributable to: (i) a deemed severance from employment described in subsection (a); or (ii) another distribution event under the Plan, then the distribution shall be considered made pursuant to the distribution event referenced in (ii), and the Participant shall not be subject to the limitation on elective deferrals or Voluntary Employee



Contributions set forth in subsection (b).

**7.14 Distributions for Health and Long-Term Care Insurance for Public Safety Officers.**

- (a) If elected by the Employer, for Plan Years beginning after December 31, 2006, Eligible Retired Public Safety Officers may elect after separation from service to have up to \$3,000 distributed tax-free annually from the Plan in order to pay for Qualified Health Insurance Premiums for an accident or health plan (including a self-insured plan) or a qualified long-term care insurance contract. The Plan shall make such distributions directly to the provider of the accident or health plan or qualified long-term care insurance contract.
- (b) The term “Eligible Retired Public Safety Officer” means an individual who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a Public Safety Officer with the Employer who maintains the eligible retirement plan from which distributions pursuant to this Section are made. The term “Public Safety Officer” has the same meaning given such term by Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968.
- (c) The term “Qualified Health Insurance Premiums” means premiums for coverage for the Eligible Retired Public Safety Officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code Section 7702B).

**7.15 EESA Provisions.** The provisions relating to qualified disaster recovery assistance distributions for Participants affected by certain 2008 severe storms, flooding, and tornadoes and repayment thereof, and relating to repayment of prior qualified distributions for home purchases, set forth in Section 702 of the Emergency Economic Stabilization Act of 2008 (“EESA”) shall apply to the Plan.

**7.16 KETRA and GOZA Provisions.** The provisions relating to qualified hurricane distributions and repayment thereof set forth in Section 1400Q(a) of the Code, and relating to repayment of prior qualified distributions for home purchases set forth in Code Section 1400Q(b), shall apply to the Plan. These provisions added to the Code by the Katrina Emergency Tax Relief Act of 2005 (“KETRA”) and the Gulf Opportunity Zone Act of 2005 (GOZA), permit plans to allow repayments of certain prior qualified distributions for home purchases for Participants affected by Hurricanes Katrina, Rita, and Wilma.

## **Article VIII. Loans to Participants**

**8.01 Availability of Loans to Participants.**

- (a) If elected by the Employer, loans will be available to Participants in this Plan. A Participant may apply for a loan from the Plan subject to the limitations and other provisions of this Article.
- (b) The Employer shall establish written guidelines governing the granting of loans, provided that such guidelines are approved by the Administrator and are not inconsistent with the provisions of this Article, and that loans are made available to all applicable Participants on a reasonably equivalent basis.

**8.02 Terms and Conditions of Loans to Participants.** Any loan by the Plan to a Participant under Section 8.01 of the Plan shall satisfy the following requirements:

- (a) *Availability.* Loans shall be made available to all Participants who are active employees on a reasonably

equivalent basis. Loans shall not be made available to terminated Employees, Beneficiaries, or alternate payees.

- (b) *Interest Rate.* Loans must be adequately secured and bear a reasonable interest rate.
- (c) *Loan Limit.* No Participant loan shall exceed the present value of the Participant's Account.
- (d) *Foreclosure.* In the event of default on any installment payment, the outstanding balance of the loan shall be a deemed distribution. In such event, an actual distribution of a plan loan offset amount will not occur until a distributable event occurs in the Plan.
- (e) *Reduction of Account.* Notwithstanding any other provision of this Plan, the portion of the Participant's Account balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the Account balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan.
- (f) *Amount of Loan.* At the time the loan is made, the principal amount of the loan plus the outstanding balance (principal plus accrued interest) due on any other outstanding loans to the Participant from the Plan and from all other plans of the Employer that are either eligible deferred compensation plans described in Section 457(b) of the Code or qualified employer plans under Section 72(p)(4) of the Code shall not exceed the lesser of:
  - (1) \$50,000, reduced by the excess (if any) of
    - (i) The highest outstanding balance of loans from the Plan during the one (1) year period ending on the day before the date on which the loan is made; over
    - (ii) The outstanding balance of loans from the Plan on the date on which such loan is made; or
  - (2) One-half of the value of the Participant's interest in all of his or her Accounts under this Plan.

For the purpose of the above limitation, all loans from all qualified employer plans of the Employer under Code Section 72(p)(4) are aggregated.

- (g) *Application for Loan.* The Participant must give the Employer adequate written notice, as determined by the Employer, of the amount and desired time for receiving a loan. No more than one (1) loan may be made by the Plan to a Participant in any twelve-month period, unless a different period is elected by the Employer. No loan shall be approved if an existing loan from the Plan to the Participant is in default to any extent.
- (h) *Length of Loan.* Any loan issued shall require the Participant to repay the loan in substantially equal installments of principal and interest, at least monthly, over a period that does not exceed five (5) years from the date of the loan; provided, however, that if the proceeds of the loan are applied by the Participant to acquire any dwelling unit that is to be used within a reasonable time (determined at the time of the loan is made) after the loan is made as the principal residence of the Participant, the five (5) year limit shall not apply. In this event, the period of repayment shall not exceed a reasonable period determined by the Employer. Principal installments and interest payments otherwise due may be suspended for up to one (1) year during an authorized leave of absence, if the promissory note so provides, but not beyond the original term permitted under this subsection (h), with a revised payment schedule (within such term) instituted at the end of such period of suspension.

- (i) *Prepayment.* The Participant shall be permitted to repay the loan in whole or in part at any time prior to maturity, without penalty.
- (j) *Promissory Note.* The loan shall be evidenced by a promissory note executed by the Participant and delivered to the Employer, and shall bear interest at a reasonable rate determined by the Employer.
- (k) *Security.* The loan shall be secured by an assignment of the participant's right, title and interest in and to his or her Account.
- (l) *Assignment or Pledge.* For the purposes of paragraphs (f) and (g), assignment or pledge of any portion of the Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan.
- (m) *Other Terms and Conditions.* The Employer shall fix such other terms and conditions of the loan as it deems necessary to comply with legal requirements, to maintain the eligibility of the Plan and Trust under Section 457 of the Code, or to prevent the treatment of the loan for tax purposes as a distribution to the Participant. The Employer, in its discretion for any reason, may also fix other terms and conditions of the loan, not inconsistent with the provisions of this Article, including:
  - (1) the circumstances under which a loan becomes immediately due and payable, provided, however, with respect loans issued after December 31, 2012, that the loan program shall not provide that a loan becomes due and payable solely because the Participant requests or receives a partial distribution of the Participant's account balance after termination of employment;
  - (2) rules relating to reamortization of loans; and
  - (3) rules relating to refinance of loans.

### 8.03 Participant Loan Accounts.

- (a) Upon approval of a loan to a Participant by the Employer, an amount not in excess of the loan shall be transferred from the Participant's other investment fund(s), described in Section 6.05 of the Plan, to the Participant's loan account as of the Accounting Date immediately preceding the agreed upon date on which the loan is to be made.
- (b) The assets of a Participant's loan account may be invested and reinvested only in promissory notes received by the Plan from the Participant as consideration for a loan permitted by Section 8.01 of the Plan or in cash. Uninvested cash balances in a Participant's loan account shall not bear interest. Neither the Employer, the Administrator, nor any other person shall be liable for any loss, or by reason of any breach, that results from the Participant's exercise of such control.
- (c) Repayment of principal and payment of interest shall be made by payroll deduction or, Automated Clearing House (ACH) transfer, or with respect to a terminated Employee solely by ACH, and shall be invested in one (1) or more other investment funds, in accordance with Section 6.05 of the Plan, as of the next Accounting Date after payment thereof to the Trust. The amount so invested shall be deducted from the Participant's loan account. A payment intended to be a prepayment or payment of the loan in full may also be made by cashier's check or money order, and shall be invested in accordance with this provision.
- (d) The Employer shall have the authority to establish other reasonable rules, not inconsistent with the

provisions of the Plan, governing the establishment and maintenance of Participant loan accounts.

## Article IX. Roth Provisions

This Article IX has no effect unless and until the Employer affirmatively elects to offer Designated Roth Accounts.

9.01 **Definitions.** The following definitions shall apply for purposes of this Article IX.

- (a) *Designated Roth Account.* A bookkeeping account established and maintained to record the Participant's Roth Elective Deferrals, In-Plan Roth Conversions, rollovers from designated Roth account under other eligible retirement plans, and the income gains and losses thereon. Unless specifically stated otherwise, all references in the Plan to a Participant's Account shall include a Participant's Designated Roth Account.
- (b) *In-Plan Roth Conversion.* (1) A distribution from a Participant's Pre-Tax Account that is rolled over to the Participant's Designated Roth Account under the Plan, as described in Code Section 402A(c)(4)(B); or (2) A transfer from an amount in the Participant's Pre-Tax Account not otherwise distributable from the Plan to the Participant's Designated Roth Account under the Plan, as described in Code Section 402A(c)(4)(E), to the extent permitted by Section 9.05(e).
- (c) *Pre-Tax Account.* A bookkeeping account established and maintained to record the portion of the Participant's Account attributable to amounts other than Roth Elective Deferrals, In-Plan Roth Conversions, rollovers from designated Roth accounts under other eligible retirement plans, and the income gains and losses thereon. Unless specifically stated otherwise, all references in the Plan to a Participant's Account shall include a Participant's Pre-Tax Account.
- (d) *Qualified Roth Contribution Program.* A program described in paragraph (1) of Code Section 402A(b), under which a Participant may make Roth Elective Deferrals in lieu of all or a portion of the elective deferrals the Participant is otherwise eligible to make under the Plan.
- (e) *Roth Elective Deferrals.* Deferred Includible Compensation contributed pursuant to Section 9.02 by a Participant, which amounts are:
  - (1) designated irrevocably by the Participant at the time of the deferral election as a Roth elective deferral that is being made in lieu of all or a portion of the pre-tax deferrals the Participant is otherwise eligible to make under the Plan; and
  - (2) treated by the Employer as includible in the Participant's income at the time the Participant otherwise would have received that amount as Includible Compensation.

9.02 **Permitted Roth Elective Deferrals**

- (a) If the Employer elects to offer Designated Roth Accounts, as of the effective date of such election, a Participant shall be permitted to make Roth Elective Deferrals from his or her Includible Compensation in such amount or percentage as may be specified in the Joinder Agreement. A Participant's Roth Elective Deferrals will be allocated to a separate Designated Roth Account maintained for such deferrals as defined in Section 9.01(a) above.
- (b) Unless specifically stated otherwise, Roth Elective Deferrals will be treated as Deferred Compensation for all purposes under the Plan.

### 9.03 Separate Accounting

- (a) Contributions and withdrawals of Roth Elective Deferrals, In-Plan Roth Conversions and rollovers from a designated Roth account under an eligible retirement plan will be credited and debited to a Participant's Designated Roth Account.
- (b) The Plan will maintain a record of the amount of Roth Elective Deferrals, In-Plan Roth Conversions, and rollovers from a designated Roth account under an eligible retirement plan in each Participant's Designated Roth Account.
- (c) Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Designated Roth Account and Pre-Tax Account under the Plan.
- (d) No contributions other than Roth Elective Deferrals, In-Plan Roth Conversions, and rollovers from a designated Roth account under an eligible retirement plan and properly attributable earnings thereon will be credited to each Participant's Designated Roth Account.

### 9.04 Direct Rollovers

- (a) Notwithstanding anything to the contrary in the Plan, a direct rollover of a distribution from a Designated Roth Account under the Plan shall be made only to another designated Roth account under an eligible retirement plan described in Section 402A(e)(1) of the Code or to a Roth IRA described in Section 408A of the Code, and only to the extent the rollover is permitted under the rules of Section 402(c) of the Code.
- (b) Notwithstanding anything to the contrary in the Plan, unless otherwise elected by the Employer, the Plan will accept a rollover contribution to a Designated Roth Account only if it is a direct rollover from another designated Roth account under an eligible retirement plan described in Section 402A(e)(1) of the Code, or if the rollover is an In-Plan Roth Conversion defined in Section 10.05.
- (c) Eligible rollover distributions from a Participant's Designated Roth Account are taken into account in determining whether the total amount of the Participant's Account balances under the Plan exceeds \$1,000 for purposes of mandatory distributions from the Plan.

### 9.05 In-Plan Roth Conversions. Unless otherwise elected by the Employer, as of the effective date of this Article the Plan shall allow for In-Plan Roth Conversions.

- (a) *Tax Treatment.* The amount of an In-Plan Roth Conversion shall be includible in the Participant's gross income, as though it were not part of a qualified rollover contribution.
- (b) *Irrevocability.* Any election made by the Participant pursuant to Section 9.05(a) to do an In-Plan Roth Conversion shall be irrevocable.
- (c) *Treatment of Loans.* Outstanding plan loans shall be excluded from In-Plan Roth Conversions. Notwithstanding anything herein to the contrary, an In-Plan Roth Conversion shall not accelerate or otherwise cause a Participant to default on an outstanding plan loan.
- (d) *Spousal Consent.* Notwithstanding anything herein to the contrary, if the Plan requires spousal consent for a distribution, a married Participant shall not be required to obtain spousal consent in connection

with an election to make an In-Plan Roth Conversion.

- (e) *In-Plan Roth Conversions of Non-Distributable Amounts.* Effective January 1, 2013, a Participant may transfer, as part of an In-Plan Roth Conversion, an amount that is not otherwise distributable from the Participant's Pre-Tax Account to the Participant's Designated Roth Account. Such transfer shall be treated as a distribution which was contributed in a qualified rollover contribution within the meaning of Code Section 408A(e). Any distribution restrictions that were applicable to the amount before the In-Plan Roth Conversion shall apply to such amount (and earnings and losses thereon) in the Participant's Designated Roth Account. If the Participant's Account or a portion of the Account is subject to a vesting schedule, an In-Plan Roth Conversion is available only if the Account or portion of the Account is fully vested. The Participant may not transfer under this Section 9.05(e) any portion of the Account that is partially vested.

**9.06 Availability of Loans from Designated Roth Accounts.** A Participant's Designated Roth Account balance can be included to determine a Participant loan amount under Article VIII. However, unless the Employer elects otherwise, Designated Roth Accounts will not be available as a source for loans under the Plan.

## Article X. Non-Assignability

**10.01 General.** Except as provided in Article VIII and Section 10.02, no Participant or Beneficiary shall have any right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments hereunder, which payments and rights are expressly declared to be non-assignable and non-transferable.

**10.02 Domestic Relations Orders.**

- (a) *Allowance of Transfers:* To the extent required under a final judgment, decree, or order (including approval of a property settlement agreement) that (1) relates to the provision of child support, alimony payments, or marital property rights and (2) is made pursuant to a state domestic relations law, and (3) is permitted under Sections 414(p)(11) and (12) of the Code, any portion of a Participant's Account may be paid or set aside for payment to a spouse, former spouse, child, or other dependent of the Participant (an "Alternate Payee"). Where necessary to carry out the terms of such an order, a separate Account shall be established with respect to the Alternate Payee who shall be entitled to make investment selections with respect thereto in the same manner as the Participant. Any amount so set aside for an Alternate Payee shall be paid in accordance with the form and timing of payment specified in the order. Nothing in this Section shall be construed to authorize any amount to be distributed under the Plan at a time or in a form that is not permitted under Section 457(b) of the Code and is explicitly permitted under the uniform procedures described in Section 10.02(d) below. Notwithstanding the foregoing sentence, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State, then the amount of the Participant's Account shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order. Any payment made to a person pursuant to this Section shall be reduced by any required income tax withholding. An Account maintained by the Alternate Payee shall otherwise be treated as if it were a Participant Account.

- (b) *Release from Liability to Participant:* The Employer's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to an Alternate Payee to paragraph (a) of this Section and the Participant and his or her Beneficiaries shall be deemed to have released the Employer and the Plan Administrator from any claim with respect to such amounts.
  - (c) *Participation in Legal Proceedings:* The Employer and Administrator shall not be obligated to defend against or set aside any judgment, decree, or order described in paragraph (a) or any legal order relating to the garnishment of a Participant's benefits, unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Employer or Administrator to incur such expense, the amount of the expense may be charged against the Participant's Account and thereby reduce the Employer's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Employer and Administrator shall be authorized to disclose information relating to the Participant's Account to the Alternate Payee (including the legal representatives of the Alternate Payee), or to a court.
  - (d) *Determination of Validity of Domestic Relations Orders:* The Administrator shall establish uniform procedures for determining the validity of any domestic relations order. The Administrator's determinations under such procedures shall be conclusive and binding on all parties and shall be afforded the maximum amount of deference permitted by law.
- 10.03 IRS Levy.** Notwithstanding Section 10.01, the Administrator may pay from a Participant's or Beneficiary's Account balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.
- 10.04 Mistaken Contribution.** To the extent permitted by applicable law, if any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.
- 10.05 Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such persons as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.
- 10.06 Procedure When Distributee Cannot Be Located.** The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer or Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guarantee Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within six (6) months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trust shall continue to hold the benefits due such person to the extent consistent with applicable law.

## Article XI. Relationship to Other Plans and Employment Agreements

This Plan serves in addition to any other retirement, pension, or benefit plan or system presently in existence or hereinafter established for the benefit of the Employer's employees, and participation hereunder shall not affect benefits receivable under any such plan or system. Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement between any Participant and the Employer or to give any Participant the right to be retained in the employ of the Employer. Nor shall anything herein be construed to modify the terms of any employment contract or agreement between a Participant and the Employer.

## Article XII. Amendment or Termination of Plan

The Employer may at any time amend this Plan provided that it transmits such amendment in writing to the Administrator at least thirty (30) days prior to the effective date of the amendment. The consent of the Administrator shall not be required in order for such amendment to become effective, but the Administrator shall be under no obligation to continue acting as Administrator hereunder if it disapproves of such amendment.

The Administrator may at any time propose an amendment to the Plan by an instrument in writing transmitted to the Employer. Such amendment shall become effective unless, within the 30-day period beginning on the date the Administrator transmits such amendment, the Employer notifies the Administrator in writing that it disapproves such amendment, in which case such amendment shall not become effective. In the event of such disapproval, the Administrator shall be under no obligation to continue acting as Administrator hereunder.

The Employer may at any time terminate this Plan. In the event of termination, assets of the Plan shall be distributed to Participants and Beneficiaries as soon as administratively practicable following termination of the Plan. Alternatively, assets of the Plan may be transferred to an eligible deferred compensation plan maintained by another eligible governmental employer within the same State if (a) all assets held by the Plan are transferred; (b) the receiving plan provides for the receipt of transfers; (c) the Participants and Beneficiaries whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer; and (d) the Participants or Beneficiaries whose deferred amounts are being transferred are not eligible for additional annual deferrals in the receiving plan unless the Participants or Beneficiaries are performing services for the employer maintaining the receiving plan. In addition, unless otherwise prohibited by applicable law, with respect to Participants or Beneficiaries who cannot be located or who do not elect otherwise, the assets held in the accounts of such Participants or Beneficiaries may be transferred to an individual retirement plan (as defined in Section 7701(a)(37) of the Code) selected by the Employer.

Except as may be required to maintain the status of the Plan as an eligible deferred compensation plan under Section 457(b) of the Code or to comply with other applicable laws, no amendment or termination of the Plan shall divest any Participant of any rights with respect to compensation deferred before the date of the amendment or termination.

## Article XIII. Applicable Law

This Plan and Trust shall be construed under the laws of the state where the Employer is located and is established with the intent that it meet the requirements of an "eligible deferred compensation plan" under Section 457(b) of the Code, as amended. The provisions of this Plan and Trust shall be interpreted wherever possible in conformity with the requirements of that Section of the Code.

In addition, notwithstanding any provision of the Plan to the contrary, the Plan shall be administered in compliance with the requirements of Section 414(u) of the Code.



## Article XIV. Miscellaneous Items

- 14.01 **Gender and Number.** The masculine pronoun, whenever used herein, shall include the feminine pronoun, and the singular shall include the plural, except where the context requires otherwise.
- 14.02 **Electronic Communication and Consent.** Unless expressly required otherwise, where this Plan provides that a document, election, notification, direction, signature, or consent will be in writing, such writing may occur through an electronic medium, including but not limited to electronic mail, intranet or internet web posting and online account access, to the fullest extent permitted by applicable law.

### DECLARATION OF TRUST

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19th day of May, 2001, by VantageTrust Company, which declares itself to be the sole Trustee of the trust hereby created.

WHEREAS, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

WHEREAS, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

NOW, THEREFORE, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

- (a) Incorporation of ICMA Declaration by Reference; ICMA By-Laws. Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.

Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

1. any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such obligation is undertaken by the ICMA Retirement Trust (in which case the obligation of the Group Trust shall run to the ICMA Retirement Trust); and
2. all provisions dealing with the number, qualification, election, term and nomination of Trustees shall not apply, and all other provisions relating to trustees (including, but not limited to,

resignation and removal) shall be interpreted in a manner consistent with the appointment of a single corporate trustee.

(b) *Compliance with Revenue Procedure 81-100.* The requirements of Revenue Procedure 81-100 are applicable to the Group Trust as follows:

1. Pursuant to the terms of this Group Trust Agreement and Article X of the By-Laws, investment in the Group Trust is limited to assets of Deferred Compensation and Qualified Plans, investing through the ICMA Retirement Trust.
2. Pursuant to the By-Laws, the Group Trust is adopted as a part of each Qualified Plan that invests herein through the ICMA Retirement Trust.
3. In accord with the By-Laws, that part of the Group Trust's corpus or income which equitably belongs to any Deferred Compensation and Qualified Plan may not be used for or diverted to any purposes other than for the exclusive benefit of the Plan's employees or their beneficiaries who are entitled to benefits under such Plan.
4. In accord with the By-Laws, no Deferred Compensation Plan or Qualified Plan may assign any or part of its equity or interest in the Group Trust, and any purported assignment of such equity or interest shall be void.

(c) *Governing Law.* Except as otherwise required by federal, state or local law, this Declaration of Trust (including the ICMA Declaration to the extent incorporated herein) and the Group Trust created hereunder shall be construed and determined in accordance with applicable laws of the State of New Hampshire.

(d) *Judicial Proceedings.* The Trustee may at any time initiate an action or proceeding in the appropriate state or federal courts within or outside the state of New Hampshire for the settlement of its accounts or for the determination of any question of construction which may arise or for instructions.

IN WITNESS WHEREOF, the Trustee has executed this Declaration of Trust as of the day and year first above written.

VANTAGETRUST COMPANY



ICMA RETIREMENT CORPORATION  
777 NORTH CAPITOL STREET, NE | WASHINGTON, DC 20002-4240  
800-669-7400  
[WWW.ICMARC.ORG](http://WWW.ICMARC.ORG)  
BRC000-28794-0416

## RESOLUTION 2022-064

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, ADOPTING THE AMENDED AND RESTATED AGREEMENT BETWEEN THE SCHOOL BOARD OF LAKE COUNTY, FLORIDA AND THE CITY OF FRUITLAND PARK, FLORIDA FOR THE SCHOOL RESOURCE OFFICER PROGRAM 2022/2023; INCREASING COMPENSATION TO THE CITY OF FRUITLAND PARK IN THE AMOUNT OF \$5,101.00 FOR TOTAL ANNUAL COMPENSATION OF \$65,063.00; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the School Board of Lake County, Florida requested the city provide a School Resource Officer for the Fruitland Park Elementary School for 2020/2021 school year and the school board agreed to pay \$59,962.00 plus overtime, if any; and

**WHEREAS**, the School Board of Lake County, Florida and the City of Fruitland Park, Florida entered into that certain Agreement between the School Board of Lake County, Florida and the City of Fruitland Park, Florida for the School Resource Officer Program 2022/2023 dated June 13, 2022; and

**WHEREAS**, due to a change in the officer who will serve as school resource officer at Fruitland Park Elementary School it is necessary to increase the amount the city will be compensated; and

**WHEREAS**, the City Commission of the City of Fruitland Park, Florida finds that providing a City of Fruitland Park officer to act as the school resource officer at Fruitland Park Elementary for the 2022-2023 school year is beneficial to the city and its residents and is authorized by Section 163.01, Florida Statutes, with the authority to enter into an agreement for this public purpose; and

**WHEREAS**, the City Commission of the City of Fruitland Park, Florida desires to adopt the Amended and Restated Agreement between the School Board of Lake County, Florida and the City of Fruitland Park, Florida for the School Resource Officer Program 2022/2023.

### **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

Section 1. The Amended and Restated Agreement between the School Board of Lake County, Florida and the City of Fruitland Park, Florida for the School Resource Officer Program 2022/2023, **a copy of which is attached hereto**, is approved.

Section 2. The commission authorizes the mayor to execute the amended and restated agreement between the School Board of Lake County, Florida and the City of Fruitland Park, Florida for the School Resource Officer Program 2022/2023.

Section 3. This resolution shall take effect immediately upon its final adoption by the City Commission of the City of Fruitland Park, Florida.

PASSED AND RESOLVED this 10th day of November 2022, by the City Commission of the City of Fruitland Park, Florida.

SEAL

CITY COMMISSION OF THE CITY OF  
FRUITLAND PARK, FLORIDA

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Chris Cheshire, Mayor

ATTEST:

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ESTHER COULSON, CITY CLERK, MMC

|                       |       |        |       |       |       |              |       |          |
|-----------------------|-------|--------|-------|-------|-------|--------------|-------|----------|
| Mayor Cheshire        | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Bell     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Vice Mayor Gunter     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner DeGrave  | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Mobilian | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |

Approved as to form and legality:

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Anita Geraci-Carver, City Attorney

**AMENDED AND RESTATED AGREEMENT BETWEEN THE SCHOOL BOARD  
OF LAKE COUNTY, FLORIDA, AND THE CITY OF FRUITLAND PARK, FOR  
SCHOOL RESOURCE OFFICER PROGRAM [2022-2023]**

This **AGREEMENT** is entered into by and between the **City of Fruitland Park**, a Florida municipal corporation, hereinafter referred to as “**LAW ENFORCEMENT AGENCY**” and the **School Board of Lake County, Florida**, a political subdivision of the State of Florida, hereinafter referred to as “**SCHOOL BOARD**”.

**WITNESSETH:**

**WHEREAS**, the **SCHOOL BOARD** is seeking one (1) School Resource Officers (SROs) to interact with students during the regular class schedule and at extra-curricular school activities so as to provide additional security to students, school personnel, the school community and school property; and

**WHEREAS**, the **LAW ENFORCEMENT AGENCY** is willing to place one (1) **City of Fruitland Park** Police Officers at **Fruitland Park Elementary (1)** for the purpose of carrying out this school program.

**NOW, THEREFORE**, in and for consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree that the **LAW ENFORCEMENT AGENCY** will provide one (1) sworn **City of Fruitland Park** Police Officers who are certified pursuant to Section 943.10(1) *Florida Statutes* to the **SCHOOL BOARD** to act as SROs at the one (1) designated schools under the terms and conditions of this Agreement.

1. Term of Agreement. The term of this Agreement shall be for the next school year, beginning the 10<sup>th</sup> day of August 2022 through the last day of school for students in May 2023.

2. Compensation. The **SCHOOL BOARD** will pay the **City of Fruitland Park** the sum of Fifty-nine thousand fifty-two (\$59,692.00) Dollars for services of the one (1) SROs provided pursuant to the terms of this Agreement. Such compensation shall be invoiced to the **SCHOOL BOARD** by the **LAW ENFORCEMENT AGENCY** in equal quarterly installments (September, November, February, and May) commencing on the 1<sup>st</sup> day of September 2022. Invoices shall be paid by the **SCHOOL BOARD** within fifteen (15) days of receipt. In the event

that The Board of County Commissioners of Lake County, Florida, agrees to pay for any or all of the police officers assigned to the schools pursuant to this Agreement, then the LAW ENFORCEMENT AGENCY agrees that the SCHOOL BOARD may assign its obligation to pay under this section to The Board of County Commissioners of Lake County, Florida.

2.a Compensation. **Amended on October 24, 2022 at request of Fruitland Park Police Department due to change in assigned School Resource Officer.** The SCHOOL BOARD will pay the **City of Fruitland Park** the sum of Five thousand one hundred fifty-one (\$5,151.00) Dollars in addition to the original agreed upon amount of Fifty-nine thousand six hundred ninety-two (\$59,692.00) Dollars for services of the one (1) SROs provided pursuant to the terms of this Agreement. Such compensation shall be invoiced to the SCHOOL BOARD by the LAW ENFORCEMENT AGENCY in equal quarterly installments as stipulated above in section 2.

3. Scope. The LAW ENFORCEMENT AGENCY shall assign an SRO for one (1) designated schools. The SROs shall interact with students and provide security at the one (1) designated schools. In addition, the SROs shall have the duties and responsibilities listed in Exhibit “A” attached hereto.

4. Background Investigations. The LAW ENFORCEMENT AGENCY represents and warrants to the SCHOOL BOARD that the LAW ENFORCEMENT AGENCY has read and is familiar with Sections 1012.32, 1012.465, 1012.467 and 1012.468, *Florida Statutes* regarding background investigations. The LAW ENFORCEMENT AGENCY covenants to comply with all requirements of the above-cited statutes and shall provide SCHOOL BOARD with proof of compliance upon request. The LAW ENFORCEMENT AGENCY agrees, to the extent permitted by law and only to the extent permitted by 768.28, *Florida Statutes*, to indemnify and hold harmless the SCHOOL BOARD, it’s officers, agents and employees from any liability in the form of physical injury, death, or property damage resulting from the LAW ENFORCEMENT AGENCY’s failure to comply with the requirements of this paragraph or Florida Statute Sections, 1012.32, 1012.465, 1012.467 and 1012.468, *Florida Statutes*. Any claim against the LAW ENFORCEMENT AGENCY by the SCHOOL BOARD under the preceding sentence shall not include punitive damages or any interest for the period before judgment. Additionally, the LAW ENFORCEMENT AGENCY shall not be liable pursuant to this indemnity to pay a claim or

judgment by any one person which exceeds the sum of \$200,000 or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the LAW ENFORCEMENT AGENCY arising out of the incident or occurrence, exceeds the sum of \$300,000. Further, nothing in this paragraph shall be construed as an admission of liability on behalf of the LAW ENFORCEMENT AGENCY.

5. Assignment of Officers. The LAW ENFORCEMENT AGENCY shall determine which SROs will be assigned under this Agreement and will also determine the particular school to which the SRO will be assigned to. The LAW ENFORCEMENT AGENCY shall provide a notice of the assigned SROs to the school principals of the one (1) designated school. In the event that the principal of the school where the SRO is assigned believes that the particular SRO is not effectively performing his/her duties and responsibilities, the principal shall notify the SRO in writing. If the situation is not corrected within three (3) working days, the principal shall contact the SRO's immediate supervisor and the Superintendent's designee in writing and provide a copy of said notice to each of them. If the situation is not resolved to the mutual satisfaction of both the SRO's immediate supervisor and the Superintendent's designee within ten (10) days, or if, during the same contract period, the principal determines for a second time that the SRO is not effectively performing his/her duties and responsibilities, then the Principal shall recommend to the Superintendent that the SRO be removed from the program at his/her school, and shall state the reasons as well as the efforts to resolve the problems in writing. The Superintendent, or his/her designee, shall review the request and, if approved, shall provide written notification to the LAW ENFORCEMENT AGENCY who shall transfer the SRO or take other appropriate action within ten (10) business days. In the event the principal considers the SRO's conduct to present a threat to the safety or well-being of the students or staff, the principal will immediately notify the Superintendent and the LAW ENFORCEMENT AGENCY. Upon receipt of such notification, the LAW ENFORCEMENT AGENCY shall take appropriate action.

6. Dismissal/Replacement/Absence. The LAW ENFORCEMENT AGENCY may dismiss or reassign SROs with or without cause. In the event of the resignation, dismissal, or reassignment of an SRO, or in the case of long-term absences by an SRO, the LAW ENFORCEMENT AGENCY shall provide a temporary replacement for the SRO as soon as practical.



7. Leaves/Coverage. The Chief of Police or another designated scheduling officer will approve vacations, sick leaves, and other leaves of absence for the SRO. The SRO will communicate approved vacation, sick leaves, trainings or any other leave that impacts SRO presence in schools with the SCHOOL BOARD'S Safety and Security Specialist. LAW ENFORCEMENT AGENCY shall provide coverage of an SRO during any time in which the SRO will be off campus of the school to include, but not be limited to vacations, sick leaves, other leaves of absence or due to other related assignments.

8. Hours of Assignment. The SROs will be stationed at the one (1) designated schools for eighty (80) hours per two-week period, Monday through Friday, as assigned and scheduled by the respective school principal and as approved by the LAW ENFORCEMENT AGENCY.

9. Additional Hours of Assignment. Additional hours of assignment during a two-week period may be made with prior approval of the LAW ENFORCEMENT AGENCY, if requested by the respective school principal. If the additional hours worked require that overtime be paid to the SROs, the SCHOOL BOARD will reimburse the LAW ENFORCEMENT AGENCY for overtime paid at the SRO's existing pay rate.

10. Off Campus Assignments. Upon the request of the respective school principal and with the prior approval of the LAW ENFORCEMENT AGENCY, an SRO's duties may occasionally include his/her assignment at school functions and activities that are held off campus.

11. Reassignment in Emergency Situations. Nothing in this Agreement shall prevent or interfere with the ability of the LAW ENFORCEMENT AGENCY to temporarily withdraw an assigned SRO from his/her post at the one (1) designated schools to respond to emergency situations as determined in the sole judgment and discretion of the LAW ENFORCEMENT AGENCY.

12. Supervising Authority. During the term of this Agreement, the SROs assigned shall remain employees of the LAW ENFORCEMENT, under the authority of the chain of command of the LAW ENFORCEMENT AGENCY and subject to all other rules and regulations of the LAW ENFORCEMENT AGENCY. The SROs will report to their respective school principal for

assignment of duties and work schedules, including the extracurricular activities during the regular school day for up to eighty (80) hours for each officer per two-week period. Each SRO shall remain, at all times, an employee of the LAW ENFORCEMENT AGENCY. Workers Compensation coverage, as required by law, will be provided for the officer by the LAW ENFORCEMENT AGENCY.

13. Salary and Benefits. The LAW ENFORCEMENT AGENCY will provide the salary and benefits to each SRO assigned, including uniforms and equipment and any applicable overtime pay as agreed to above.

14. Vehicle. The LAW ENFORCEMENT AGENCY will provide vehicles for SROs if or when determined necessary by the LAW ENFORCEMENT AGENCY.

15. Threats to School Safety.

A. Pursuant to Section 1006.13(4), *Florida Statutes*, any acts that pose a threat to school safety, whether committed by a student or adult, shall be reported to the School Principal, or his or her designee, who shall report the acts to the SRO and the School Board's School Safety Specialist.

B. If requested by the School Principal, or his or her designee, the SRO, or other appropriate law enforcement officers, shall assist in the investigation of the acts that pose a threat to school safety; upon conclusion of the investigation, the SRO shall report the findings of the investigation to the School Board's School Safety Specialist to properly document the disposition of the incident. Additionally, the School Principal, or his or her designee, shall consult with SRO concerning appropriate delinquent acts and crimes.

16. Termination of Agreement. This Agreement may be terminated by either party upon thirty (30) days written notice. Notice shall be deemed given as of the date of deposit of such written NOTICE in the course of transmission in the United States Postal Service and addressed as follows:

SCHOOL BOARD:

Superintendent of Schools  
School Board of Lake County  
201 West Burleigh Boulevard  
Tavares, FL 32778

LAW ENFORCEMENT  
AGENCY:

Chief of Police  
City of Fruitland Park Police  
Department  
506 W. Berckman Street  
Fruitland Park, FL 34731

Upon termination pursuant to this subsection, payment will be made by the SCHOOL BOARD or reimbursement made by the LAW ENFORCEMENT AGENCY based on a pro rata charge for services for that portion of the school year covered by this Agreement prior to termination.

17. Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties with respect to the subject matter hereto and supersedes all prior Agreements, representations and understandings either oral, written or otherwise relating thereto. This Amended and Restated Agreement between The School Board of Lake County, Florida, and The City of Fruitland Park, for School Resource Officer Program [2022-2023] replaces the Agreement between The School Board of Lake County, Florida, and The City of Fruitland Park, for School Resource Officer Program [2022-2023] dated June 13, 2022.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the respective dates under each signature.

**“SCHOOL BOARD”**

**THE SCHOOL BOARD OF LAKE COUNTY,  
FLORIDA**

By: \_\_\_\_\_  
Stephanie Luke, Chairperson

Date: \_\_\_\_\_

Approved as to form:

Attest: \_\_\_\_\_

Diane S. Kornegay, Superintendent

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School Board Attorney

**“LAW ENFORCEMENT AGENCY”  
CITY OF FRUITLAND PARK**

By: \_\_\_\_\_  
Chris Cheshire, Mayor

Date: \_\_\_\_\_

Approved as to form:

Attest: \_\_\_\_\_

\_\_\_\_\_  
Anita Geraci-Carver,  
City Attorney

## **EXHIBIT "A"**

In addition to the routine duties and responsibilities of the SROs, the SROs shall have the following specific duties and responsibilities:

1. Each SRO shall at all times perform his/her duties in accordance with City of Fruitland Park Police Department's standard operating procedures.
2. The SROs shall serve as resource instructors providing programs in crime prevention that encourage students to become responsible citizens.
3. The SROs shall also assist the orderly flow of traffic on school grounds.
4. Each SRO shall maintain all law enforcement powers, duties, and responsibilities inclusive of his/her position as City of Fruitland Park Police Officers while assigned to the SRO program.
5. Each SRO shall be responsible to his/her agency in all matters relating to employment, however, activities conducted by the SROs which are part of the regular school instruction program shall be under the direction of the principal or his/her designee.
6. Each SRO shall be at his/her school during normal school hours of operation and shall utilize the school's computer-based management system to sign in and out to verify attendance. During times that the SROs are unable to be on campus or need to leave campus, those times will be coordinated with the principal or his/her designee and each SRO's supervisor. The SRO supervisor will assure that the School has a replacement SRO on campus.
7. The SROs shall perform such duties as directed by his/her agency when school is not in session. The principal or his/her designee shall advise the Officers' supervisor of the school's calendar.
8. The SROs may contact students during school hours in conjunction with a criminal investigation so long as such contact does not interfere with or impede the orderly operation of the school or the rights of the individual students.
9. All student record information will be maintained in accordance with the provisions of Florida Statutes.
10. The SROs shall interface with students between class breaks, during lunch periods, before and after school and at school activities at which the SROs are in attendance. The SROs will not be assigned to a permanent school related duty post so as not to establish predictable patterns.
11. In the interest of maintaining a safe and orderly school environment, student and campus supervision is of critical importance. The SROs shall take a prominent role in supervision

responsibilities, which shall be coordinated with and agreed to by the SROs and the designated school principal. While school is in session, the SROs shall be present on and around the school campus except as permitted in paragraph 6 of this Exhibit A.

12. The SROs will serve as a referral resource for students, faculty and parents to community agencies.

13. The SROs will serve as a Law Enforcement resource to school administration and the district manager of security services.

14. The SROs shall be familiar and offer support with the plans and strategies for the prevention and control of dangerous situations at the school.

15. The SROs will coordinate activities with the school administration and the school guidance department in an effort to identify those students who exhibit indications of early delinquent behavior.

16. The SROs shall attend meetings of school faculty and requested administrative meetings during school hours on a regular basis.

17. The SROs shall not act as a school disciplinarian, as disciplining students is a school responsibility. However, the principal shall contact the SROs for any violations of the law, and the SROs shall determine whether law enforcement action is appropriate.

18. The SROs shall take law enforcement action as necessary and as permitted under Florida law and shall inform the school principal of such action unless it would impede a criminal investigation, under such circumstances as practical. The SROs shall take appropriate law enforcement action against intruders and unwanted guests who may appear at the school and related school functions, to the extent that the SROs may do so under the authority of law. Whenever practical, the SROs shall advise the principal before requesting additional law enforcement assistance on campus.

19. The SROs shall be informed by school personnel of any situation occurring on school grounds that would appear to be a violation of the law of criminal nature.

20. The SROs shall maintain detailed accurate records of his/her activities, and provide a written monthly report to the LAW ENFORCEMENT AGENCY who shall provide such information to the Safe Schools Department of the SCHOOL BOARD.

21. The SROs and school administration shall work together to keep each other informed during the course of all criminal investigations as permitted by law and as practical. This provision shall not be interpreted so as to interfere with or impede the SROs' law enforcement duties, obligations and/or powers.

22. The SROs shall work with school administration when determining whether an arrest should be made, or if there is an alternative solution to the incident which would still be in compliance with Florida law. The final decision on whether arrest is appropriate will lie with the attending SRO or other law enforcement officer on scene at the incident. This provision shall not

be interpreted so as to interfere with or impede the SROs' law enforcement duties, obligations or powers.

23. The SROs shall affect a physical arrest for felonies committed on school grounds, particularly those that are "Zero Tolerance," as permitted by law.

24. The SROs shall give assistance to other law enforcement officers and government agencies in matters regarding his/her school assignment, whenever necessary.

25. The parties shall comply with the provisions of the Family Educational Rights and Privacy Act ("FERPA").



**RESOLUTION 2022-065**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING ADMINISTRATIVE SERVICES PROPOSAL DATED OCTOBER 11, 2022 FROM HALFF IN AN AMOUNT NOT TO EXCEED \$24,500; AUTHORIZING THE MAYOR TO EXECUTE THE PROPOSAL; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Fruitland Park issued ITB 2021-04 Urick Street Force Main and entered into a contract titled EJCDC Standard Form of Agreement between owner and contractor on the basis of a stipulated price between the City of Fruitland Park and Cathcart Construction Company Florida LLC, Oviedo dated May 9, 2022, as amended; and

**WHEREAS**, the State Revolving Fund (SRF) funding agreement requires the city comply with certain requirements in order to be reimbursed for the Urick Street Force Main project; and

**WHEREAS**, Halff offers the services needed by the city to ensure oversight and compliance with SRF requirements; and

**WHEREAS**, the City Commission of the City of Fruitland Park, Florida finds it is in the best interest of the City to approve the proposal from Halff.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

Section 1. The Administrative Services Proposal dated October 11, 2022 from Halff in the amount not to exceed \$24, 500.00, **a copy of which is attached**, is approved.

Section 2. The Commission authorizes the mayor to execute the proposal.

Section 3. This resolution shall take effect immediately upon its final adoption by the City Commission of the City of Fruitland Park, Florida.

PASSED AND RESOLVED this 10<sup>th</sup> day of November, 2022, by the City Commission of the City of Fruitland Park, Florida.

**SEAL**

**CITY COMMISSION OF THE CITY OF  
FRUITLAND PARK, FLORIDA**

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CHRIS CHESHIRE, MAYOR

ATTEST:

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ESTHER COULSON, CITY CLERK, MMC

|                       |       |        |       |       |       |              |       |          |
|-----------------------|-------|--------|-------|-------|-------|--------------|-------|----------|
| Mayor Cheshire        | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Vice Mayor Gunter     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Bell     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner DeGrave  | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Mobilian | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |

Approved as to form:

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Anita Geraci-Carver, City Attorney



Via Email at [glavenia@fruitlandpark.org](mailto:glavenia@fruitlandpark.org)

October 11, 2022

Gary LaVenía, City Manager  
City of Fruitland Park  
506 W. Berckman Street  
Fruitland Park, Florida 34731

**RE: CITY OF FRUITLAND PARK – URICK STREET FORCE MAIN CLEAN WATER  
STATE REVOLVING FUND ADMINISTRATIVE SERVICES PROPOSAL:**

Attention Gary LaVenía:

We are pleased to present the following proposal, for Davis Bacon Act, Contract Work Hours and Safety Act & Copeland Anti-Kickback Act services, as required by the State Revolving Fund (SRF) program for the City of Fruitland Park's Urick Street Force Main Extension project. This work was not included in our initial proposal, as it is a new service that Halff Associates, Inc. is offering. It does not appear the City has obtained these services from another firm, and it is important to note that this work is required by the FDEP in order to obtain repayment for the SRF loan following payment to the Contractor, as previously discussed with the City.

**TASK 100 COMPLIANCE WITH THE SRF REQUIREMENTS**

Halff shall complete the necessary steps on behalf of the City to ensure compliance with the SRF requirements during the application submittal process. The services necessary to complete this process are as follows:

1. Coordinate with Prime Contractors, Subcontractors and applicable trucking companies to process and review and submit required DBA/CWHSSA/Copeland for the purpose of weekly payroll reviews.
2. Conduct a minimum of one (1) on-site employee interviews of covered employees on a monthly basis.
3. Conduct on-site assessments to determine compliance with posting of DBA/CWHSSA/Copeland material on-site on a monthly basis.
4. Review and approve shop drawings for compliance with American Iron and Steel (A.1.5)

**FEE: \$24,000.00**

**TASK 999 REIMBURSABLES**

Costs for reimbursables, including printing, copying, blueprints, binding, mileage, etc., shall be billed per Agreement.

**FEE: \$500.00 (BUDGET)**



Limitation of Services:

- The Client shall be responsible for providing all reference material needed to ensure the Contractor's ability to effectively perform the "Scope of Services". Reference Material may include, but is not limited to: The Prime Contractor's submitted bid, the Prime Contractor's proposed work schedule, a list of Subcontractors, contact information for all Prime and Subcontractors, and material provided by the Funding Agency regarding the "Scope of Services".
- Contractor shall not invoice for weeks when work is not performed by any authorized prime, sub, or trucking contractor responsible for construction of the project.

Limitation of fees:

- The Contractor maintains the quoted fees include the minimum hours needed to Complete the work, incidentals, overhead and a reasonable profit.

Should you have any questions or comments, please feel free to Troy Mitchell at 352-343-8481 or [troy.mitchell@Halff.com](mailto:troy.mitchell@Halff.com)



**SUMMARY FEE SCHEDULE**

|              |                     |
|--------------|---------------------|
| TASK 001     | \$ 24,000.00        |
| TASK 002     | \$ 500.00           |
| <b>TOTAL</b> | <b>\$ 24,500.00</b> |

**Representation on Authority of Parties/Signatories.** Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party’s obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

**APPROVED:**

Engineer: **HALFF ASSOCIATES, INC.**

Signature: 

Name: Robert A. Ern, Jr., P.E.

Title: Director of Water and Wastewater, VP

Date: October 11, 2022

**APPROVED:**

Client: **CITY OF FRUITLAND PARK**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**RESOLUTION 2022-066**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING 60-DAY EXTENSION TO CONSTRUCTION TIME REQUESTED BY CATHCART CONSTRUCTION COMPANY FLORIDA LLC, OVIEDO; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY REQUIRED APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Fruitland Park issued ITB 2021-04 Urick Street Force Main and entered into that certain contract titled EJCDC Standard Form of Agreement between Owner and Contractor on the Basis of a Stipulated Price between the City of Fruitland Park and Cathcart Construction Company Florida LLC, Oviedo dated May 9, 2022 (the “Contract”); and

**WHEREAS**, the Contract was amended in Change Order 01r to amend the Contract and plans to provide for directional drill of a 10” force main to avoid removal or disturbance of a number of live oak trees located within the path of the project; and

**WHEREAS**, procurement of critical materials is a challenge and therefore Cathcart Construction Company Florida LLC, Oviedo has requested a 60-day extension to construction time pursuant to the contract in order to obtain the critical materials; and

**WHEREAS**, the City Commission of the City of Fruitland Park, Florida finds it is in the best interest of the City to approve the 60-day extension to construction time.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Construction Time set forth in the Contract is extended 60-days.

Section 2 The Commission authorizes the city manager to execute any required approval of such extension.

Section 3. This resolution shall take effect immediately upon its final adoption by the City Commission of the City of Fruitland Park, Florida.

PASSED AND RESOLVED this 10<sup>th</sup> day of November, 2022, by the City Commission of the City of Fruitland Park, Florida.

**SEAL**

**CITY COMMISSION OF THE CITY OF  
FRUITLAND PARK, FLORIDA**

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CHRIS CHESHIRE, MAYOR

ATTEST:

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ESTHER COULSON, CITY CLERK, MMC

|                       |       |        |       |       |       |              |       |          |
|-----------------------|-------|--------|-------|-------|-------|--------------|-------|----------|
| Mayor Cheshire        | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Vice Mayor Gunter     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Bell     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner DeGrave  | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Mobilian | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |

Approved as to form:

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Anita Geraci-Carver, City Attorney



VIA EMAIL DELIVERY

October 31, 2022

Gary La Venia  
City Manager  
506 W Berckman Street  
Fruitland Park, FL 32778

RE: **URICK STREET FORCEMAIN EXTENSION**  
Extension of Contract Time

Dear Mr. La Venia,

The Contractor (Cathcart Construction Company) has requested a 60-day extension to the construction time outlined in the *EJCDC Standard Form of Agreement Between the Owner and Contractor on the Basis of a Stipulated Price*. The requested extension is based on the procurement of critical materials necessary to be obtained prior to the commencement of construction.

We are experiencing this problem on other projects with contractors not being able to obtain materials for construction in a timely manner due to manufacturing supply and delivery issues.

We recommend approval of extension of the contract time. Please feel free to contact our office at (352) 343-8481 should you have any questions with regards to this matter.

Sincerely,  
HALFF Associates, Inc.

A handwritten signature in purple ink, appearing to read "Troy Mitchell", is written over a faint, light-colored signature line.

Troy Mitchell, P.E. Project Engineer  
[troy.mitchell@halff.com](mailto:troy.mitchell@halff.com)

cc. David Boone, Cathcart Construction  
Robb Dicus, City of Fruitland Park





**A Safety Company That Builds Infrastructure Projects**

1056 Willa Springs Drive, Winter Springs, Florida 32708

August 1, 2022

Mr. Troy Mitchell, PE  
Halff Associates, Inc.  
902 Sinclair Avenue  
Tavares, FL 32778

RE: Urick Street Force Main Extension

Dear Mr. Mitchell,

Please accept this letter as our formal request for an extension of contract time due to the difficulty in obtaining construction materials in a timely manner in this economic climate. Immediately following the issuance of the NTP on June 2, 2022, we have diligently driven the submittal and procurement process.

The additional time that Cathcart is requesting is sixty (60) days. This will mitigate most of the procurement time for the critical materials needed on hand prior to the commencement of construction.

Attached to this request is correspondence from two of our critical materials suppliers: Consolidate Pipe Supply and Mack Concrete Industries.

Thank you,

A handwritten signature in black ink, appearing to read 'David Boone', written over a white background.

David Boone  
Senior Project Manager

# Updated Delivery Date

## David Boone

---

**From:** Alex Ashton <Alex.Ashton@cspipe.com>  
**Sent:** Thursday, July 14, 2022 10:04 AM  
**To:** David Boone  
**Cc:** Jim Cunningham  
**Subject:** Urick St. Directional Drill Delivery

Hey guys, as of today we are looking at around 8/18 for pipe to start to be delivered.

Thanks!

**Alex Ashton**  
Outside Sales



T: (407) 293-2001  
M: (407) 617-0528  
[Alex.Ashton@cspipe.com](mailto:Alex.Ashton@cspipe.com) - [www.consolidatedpipe.com](http://www.consolidatedpipe.com)  
3010 Eunice Ave, Orlando, FL, 32808

**Jim Cunningham**

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**From:** Jim Cunningham <jcunningham@cathcartconstructioncompany.com>  
**Sent:** Tuesday, June 28, 2022 9:22 AM  
**To:** Rebollosa, Anita  
**Cc:** Sanford, Marc; Nemcek, Scott; Gahr, Tim; Filipowicz, Amy; Brian Holtkamp  
**Subject:** RE: Urick Street Forcemain Fruitland Park CF26214

Please add [boltkamp@cathcartconstructioncompany.com](mailto:boltkamp@cathcartconstructioncompany.com) as our Super on this project.

**From:** Rebollosa, Anita <arebollosa@mackconcrete.com>  
**Sent:** Tuesday, June 28, 2022 9:03 AM  
**To:** Jim Cunningham <jcunningham@cathcartconstructioncompany.com>  
**Cc:** Sanford, Marc <msanford@mackconcrete.com>; Nemcek, Scott <snemcek@mackconcrete.com>; Gahr, Tim <tgahr@mackconcrete.com>; Filipowicz, Amy <afilipowicz@mackconcrete.com>  
**Subject:** Urick Street Forcemain Fruitland Park CF26214

Jim,

Below is the delivery schedule for this project based on soonest available. Thanks



**Mack Concrete Industries, Inc.**

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**PRECAST STRUCTURE PRIORITY LIST & TENTATIVE DELIVERY SCHEDULE**

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**CUSTOMER :** CATHCART CF26214  
**Job Name** URICK STREET FORCEMAIN FRUITLAND PARK

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| Structure Number | Tentative Date  | Comments |
|------------------|-----------------|----------|
| ARV1             | WEEK OF 8/8/22  |          |
| 2                |                 |          |
| 3                |                 |          |
| 4                |                 |          |
| 5                |                 |          |
| 6                |                 |          |
| 7                |                 |          |
| 8                | WEEK OF 8/15/22 |          |
| 9                |                 |          |
| 10               |                 |          |
| 11               |                 |          |
| 12               |                 |          |

|    |                 |  |
|----|-----------------|--|
| 13 |                 |  |
| 14 |                 |  |
| 15 | WEEK OF 8/22/22 |  |
| 16 |                 |  |
| 17 |                 |  |
| 18 |                 |  |
| 19 |                 |  |
| 20 |                 |  |
| 21 |                 |  |
| 22 | WEEK OF 8/29/22 |  |
| 23 |                 |  |
| 24 |                 |  |
| 25 |                 |  |
| 26 |                 |  |
| 27 |                 |  |
| 28 |                 |  |



**Anita Rebolosa**  
Production / Scheduling

**Mack Industries, Inc.**  
23902 County Road 561 Astatula, FL 34705  
Phone: 800.482.6225 6106/76106 | Cell: | Fax: 352.642.8201  
email: [arebolosa@mackconcrete.com](mailto:arebolosa@mackconcrete.com)  
web: [www.mackconcrete.com](http://www.mackconcrete.com)

***"Quality and Service since 1932"***

**WHEREAS**, the County, the Cities and the School Board are mandated to enter into this Interlocal Agreement pursuant to Section 163.01, Section 163.3177(6)(h)2, Section 163.3180(13)(g), and Section 1013.33(2)(a), Florida Statutes; and

**WHEREAS**, sections 163.31777 and 163.3180(g), Florida Statutes, sets the school concurrency requirements that must be implemented through interlocal coordination between the County, the Cities and the School Board; and

**WHEREAS**, the County, the Cities and the School Board have met and coordinated with respect to the statutory requirements for a countywide, uniform school concurrency program; and

**WHEREAS**, the School Board is obligated to maintain and implement a financially-feasible, 5-year capital facilities program based on the level of service standards provided for in this Agreement; and

**WHEREAS**, the County and the Cities are required to amend their comprehensive plan and Land Development Regulations, as appropriate and necessary, in order to effectuate their obligations under this Agreement and state statute; and

**WHEREAS**, the School Board has a constitutional and statutory obligation to provide a uniform system of free public schools on a countywide basis; and

**WHEREAS**, the County and the Cities have the sole authority to undertake land use planning and to implement necessary land development regulations within their jurisdictions; and

**WHEREAS**, this Agreement neither is intended to nor does it delegate or transfer any land use planning or regulatory authority to the School Board; and

**WHEREAS**, the Concurrency Review Committee requested certain changes to the Interlocal Agreement by vote at its meeting held on February 7, 2008, such changes being incorporated into this First Amended Interlocal Agreement.

**NOW THEREFORE**, be it mutually agreed between the School Board of Lake County and the Board of County Commissioners of Lake County and the cities of Astatula, Howey in the Hills, Tavares, Mt. Dora, Eustis, Umatilla, Leesburg, Lady Lake, Fruitland Park, Minneola, Mascotte, Groveland, Clermont, and Monteverde that the following requirements and procedures shall be utilized in coordinating land use and the siting of public school facilities:

## **Section 1 Coordination and Sharing of Information**

### **Section 1.1 Joint Meetings**

1.1.1 Staff of the County, the Cities, and the School Board shall meet at least quarterly to discuss issues regarding coordination of land use and school facilities planning, including such issues as population and student projections, levels of service, capacity, development trends, school needs, co-location and joint use opportunities, and ancillary infrastructure improvements needed to support schools and ensure safe student access. The School Board staff shall be responsible for making meeting arrangements. Such meetings shall be held during the first two weeks of January, April, July and October each year.

1.1.2 The Lake County Educational Concurrency Review Committee shall meet at least annually, but more often as needed. The annual meeting shall be held during the first two weeks of December each year. The annual meeting will provide an opportunity for the Committee to hear reports, discuss policy and reach understandings concerning issues of mutual concern regarding school concurrency, coordination of land use and school facilities planning, population and student growth, development trends, school needs, off-site improvements, and joint use opportunities. The Superintendent of Schools or designee shall be responsible for making meeting arrangements and providing notification, including notice to the general public.

1.1.3 The Lake County Educational Concurrency Review Committee shall be composed of the following members: Sixteen members, with one representative from the Lake County School Board, one from the

Lake County Board of County Commissioners, and one representative from each City. **Members may be elected officials or citizens.** Members of the Committee shall be appointed annually by each appointing body. The Committee shall elect a chair and a vice-chair and shall adopt such rules as it determines are necessary. The Committee shall be subject to the Public Meetings Law and all meetings shall be duly noticed, open to the public, and duly advertised. Six members of the committee shall constitute a quorum

## **Section 1.2 Oversight Process**

The effectiveness with which the Interlocal Agreement is being implemented shall be considered at the annual meeting described in Section 1.1.2. The staff representatives of each local government and the School Board, as described in Section 1.1.1, shall provide technical review and recommendations regarding any need for change to the provisions of the agreement. The workshop shall be publicly noticed and the agenda shall provide an opportunity for public input and comment. The representatives of each of the local governments and School Board will report back to their respective bodies with recommendations for any needed changes to this Agreement. The Committee shall prepare and adopt an annual report summarizing its findings and shall distribute such report to the County, all Cities and the School Board.

## **Section 1.3 Student Enrollment, Population Projections, Growth and Development Trends**

1.3.1 In fulfillment of their respective planning duties, the County, the Cities, and the School Board agree to coordinate and base their plans upon consistent projections of the amount, type, and distribution of population growth and student enrollment. The School Board shall be responsible for developing student enrollment projections and generation rates and the County shall be responsible for developing county-wide population growth projections. The School Board and County shall consult with the Cities in developing its projections. The School Board shall use the procedures set forth in Section 5.1.1 (2) in making any changes to the methodology of how these projections are made.

1.3.2 The School Board shall utilize both district-wide student population projections, which are based on information produced by the demographic, revenue, and education estimating conferences pursuant to Section 216.136, Florida Statutes, where available, and projections based on the Concurrency Service Areas (CSA) established in Section 5 of this Agreement. These projections may be modified by the School Board based on local development trends and data with agreement of the Florida Office of Educational Facilities and the SMART (Soundly Made, Accountable, Reasonable and Thrifty) Schools Clearinghouse. Such student population projections shall take into account students who are home schooled, who attend private schools, or who attend non-conversion charter schools.

1.3.3 Quarterly, the County and each City shall provide the School Board with a report on growth and development trends within their respective jurisdiction, by CSA, as provided in Section 5 of this Agreement. This report will be in tabular, graphic, and textual formats and shall be provided by January 15, April 15, July 15 and October 15 of each year for the quarter that ended on the last day of the previous month.

- (1) The report shall include the following:
  - a. The type, number, and location of residential units which have received zoning approval or site plan approval, and if available, any phasing plans for such development;
  - b. Information, to the extent available, regarding the conversion or redevelopment of housing or other structures into residential units which are likely to generate new students;
  - c. The amount of school impact fees assessed by unit type, the unit of local government from which the fees were collected, the amount of impact fee revenues collected, and any pending changes to the school impact fee schedule;



## **CITY COMMISSION 2023 MEETING SCHEDULE**

The City of Fruitland Park holds its regularly scheduled meetings every second and fourth Thursday of the month at 6:00 p.m. at 506 West Berckman Street, Fruitland Park, Florida 34731. (City code reflects at least once in every month ss3.11, procedure.) The following meeting dates, times and locations are subject to change due to special and/or workshop meetings, public hearings, national holidays, office closings and any other unforeseen circumstances such as emergencies:

January 12, 2023

January 26, 2023

February 9, 2023

February 23, 2023

March 9, 2023

March 23, 2023

April 13, 2023

April 27, 2023

May 11, 2023

May 25, 2023

June 8, 2023

June 22, 2023

July 13, 2023

July 27, 2023

August 10, 2023

August 24, 2023 - CANCELLED

September 14, 2023

September 28, 2023

October 12, 2023

October 26, 2023

November 9, 2023

November 23, 2023 – CANCELLED – Thanksgiving

December 14, 2023

December 28, 2023 – CANCELLED - Holidays

Any person requiring a special accommodation at these meetings because of a disability or impairment should contact the city clerk's office at city hall (352) 360-6727 at least forty-eight (48) hours prior to the meeting. (§286.26 F.S.)

**CITY OF FRUITLAND PARK**  
**AGENDA ITEM SUMMARY SHEET**  
**Item Number: 9a**

**ITEM TITLE:** Resolution 2022-067 and Budget Amendment BT 2023-001 Urick Street Sewer Extension Project Construction State Revolving Fund Loan

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Thursday, November 3, 2022

**SUBMITTED BY:** City Treasurer

**BRIEF NARRATIVE:** Resolution 2022-067, Budget Amendment BT2023-001 adds \$2,767,953 to SRF Sewer Loan Proceeds revenue (40301-33436), and increases System Improvement Urick Street sewer expense (40535-60655) by \$2,767,953. This budget amendment will increase the FY 2022-23 budget by \$2,767,953.

**FUNDS REQUIRED:** Yes (see above)

**ATTACHMENT** Proposed resolution and budget amendment.

**RECOMMENDATION:** Approve Resolution 2022-067 and Budget Amendment BT2023-001 Urick Sewer Project Construction SRF Loan

**ACTION:** Adopt Resolution 2022-067.



RESOLUTION 2022-067

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE 2022/2023 FISCAL YEAR BUDGET PURSUANT TO SEC. 6.07 OF THE CITY CHARTER TO INCREASE SRF SEWER LOAN REVENUE BUDGET AND THE SEWER SYSTEM IMPROVEMENT URICK STREET SEWER EXPENSE BUDGET; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Fiscal Year 2022-2023 budget of the City of Fruitland Park was adopted on September 22, 2022; and

WHEREAS, Florida Department of Environmental Protection Agency approved a State Revolving Fund Loan in the amount of \$2,767,953 to pay for the construction of the Urick Street Sewer Force Main Extension project; and

WHEREAS, it is necessary to increase revenues in the Utility Fund by \$2,767,953.00 for the receipt of the SRF loan funds awarded to City of Fruitland Park; and:

WHEREAS, the City Commission desires to amend the 2022-2023 Fiscal Year budget to increase the Sewer System Improvement Urick Street Sewer Expense Budget by \$2,767,953.00;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA:

Section 1. The Fiscal Year 2022/2023 budget adopted on September 22, 2022 is amended as set forth in Exhibit "A" attached hereto.

Section 2. This resolution shall take effect immediately upon its final adoption by the City Commission of the City of Fruitland Park, Florida.

PASSED AND RESOLVED this 10<sup>th</sup> day of November, 2022, by the City Commission of the City of Fruitland Park, Florida.

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City of Fruitland Park  
Chris Cheshire, Mayor

Attest:

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Esther B. Coulson, MMC  
City Clerk

Mayor Cheshire \_\_\_\_\_(Yes), \_\_\_\_\_(No), \_\_\_\_\_(Abstained), \_\_\_\_\_(Absent)  
Vice Mayor Gunter \_\_\_\_\_(Yes), \_\_\_\_\_(No), \_\_\_\_\_(Abstained), \_\_\_\_\_(Absent)  
Commissioner Bell \_\_\_\_\_(Yes), \_\_\_\_\_(No), \_\_\_\_\_(Abstained), \_\_\_\_\_(Absent)  
Commissioner DeGrave \_\_\_\_\_(Yes), \_\_\_\_\_(No), \_\_\_\_\_(Abstained), \_\_\_\_\_(Absent)  
Commissioner Mobilian \_\_\_\_\_(Yes), \_\_\_\_\_(No), \_\_\_\_\_(Abstained), \_\_\_\_\_(Absent)

Approved as to form and legality:

\_\_\_\_\_  
Anita Geraci-Carver  
City Attorney

CITY OF FRUITLAND PARK

Interfund Budget Amendment: #

BT2023-001

To: CITY MANAGER

Date: 3-Nov-2023

Prepared by: Finance Department Head

Approved: City Manager

REVENUES:

Object name & # 40301-33436 Loan Sewer SRF Amount: 2,767,953 Inc/Dec

Object name & # Amount: Inc/Dec

Object name & # Amount: Inc/Dec

Object name & # Amount: Inc/Dec

Object name & # Amount: Inc/Dec

Object name & # Amount: Inc/Dec

EXPENDITURES:

Object name & # 40535-60655- URICK Sewer System Improvement Urick Amount: 2,767,953 Inc/Dec

Object name & # Amount: Inc/Dec

Object name & # Amount: Inc/Dec

Object name & # Amount: Inc/Dec

Object name & # Amount: Inc/Dec

Object name & # Amount: Inc/Dec

Explanation: Establish budget for Urick Sewer Force Main Extension

Approved by Commission: 11/10/2022 Date

City Clerk

City Finance Director

Mayor

- (2) Executed Contract(s).
- (3) Notices to proceed with construction.
- (4) Certification Regarding Disbarment, Suspension, Ineligibility and Voluntary Exclusion.

### 9.03. INSURANCE REQUIRED.

The Local Government shall cause the Project, as each part thereof is certified by the engineer responsible for overseeing construction as completed, and the Utility System (hereafter referred to as "Revenue Producing Facilities") to be insured by an insurance company or companies licensed to do business in the State of Florida against such damage and destruction risks as are customary for the operation of utility systems of like size, type and location to the extent such insurance is obtainable from time to time against any one or more of such risks.

The proceeds of insurance policies received as a result of damage to, or destruction of, the Project or the other Revenue Producing Facilities, shall be used to restore or replace damaged portions of the facilities. If such proceeds are insufficient, the Local Government shall provide additional funds to restore or replace the damaged portions of the facilities. Repair, construction or replacement shall be promptly completed.

## ARTICLE X - DETAILS OF FINANCING

### 10.01. PRINCIPAL AMOUNT OF LOAN.

The total amount awarded is \$2,767,953. Of that, the estimated Grant amount is \$908,229 based on initial estimated Project costs. The estimated principal amount of the Loan to be repaid is \$1,859,724, which consists of \$1,859,724 to be disbursed to the Local Government and \$0 of Capitalized Interest. The Grant amount will be transferred by the Department as a payment to the Loan when the first repayment is due.

Capitalized Interest is not disbursed to the Local Government, but is amortized via periodic Loan repayments to the Department as if it were actually disbursed. Capitalized Interest is computed at the Financing Rate, or rates, set for the Loan. It accrues and is compounded annually from the time when disbursements are made until six months before the first Semiannual Loan Payment is due. Capitalized Interest is estimated prior to establishing the schedule of actual disbursements.

### 10.02. LOAN SERVICE FEE.

The Loan Service Fee is estimated as \$55,359 for the Loan amount authorized to date. The fee represents two percent of the Loan amount excluding Capitalized Interest amount; that is, two percent of \$2,767,953. The Loan Service Fee is estimated at the time of execution of the loan agreement and shall be revised with any increase or decrease amendment. The Loan Service Fee is based on actual Project costs and assessed in the final loan amendment. The Local Government shall pay the Loan Service Fee from the first available repayment(s) following the Final Amendment.

**CITY OF FRUITLAND PARK**  
**AGENDA ITEM SUMMARY SHEET**  
**Item Number: 9b**

**ITEM TITLE:** **Executive Order 14074 Letter of Notification – Law Enforcement Support Office Surplus Program Participation**

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Thursday, October 19, 2022

**SUBMITTED BY:** City Manager/Police Chief

**BRIEF NARRATIVE:** **Executive Order 14074 Letter of Notification** to serve as the police department’s compliance to the order requiring the police department to notify the city commission of its intension to participate in the law enforcement support office surplus program. The police department has been participating in the program over the last six years and would like to announce its intention to continue.

The items listed in the October 17, 2022 letter of notification would possibly be requested from the surplus and subsequently placed on the city’s website for the public to review. If there is a need to add items to the list in the future, a new letter of notification will be sent to the city commission.

**FUNDS REQUIRED:** No

**ATTACHMENT** letter of notification

**RECOMMENDATION:** Accept the letter of notification.

**ACTION:** **Motion to accept the October 17, 2022 Letter of Notification to the City Commission of Fruitland Park for Executive Order 14074 advancing effective, accountable policing and criminal justice practices to enhance public trust and public safety.**



# FRUITLAND PARK POLICE DEPARTMENT

Chief Erik D. Luce

October 17, 2022

The Honorable Fruitland Park City Commissioners  
C/O City Manager Gary La Venia (via email: [glavenia@fruitlandpark.org](mailto:glavenia@fruitlandpark.org))

RE: Notification to Civilian Governing Body and Local Community

Dear Commission:

On May 25, 2022, President Biden signed Presidential Executive Order (EO) 14074 "Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety."

In accordance with EO 14074, State, Tribal, Local, and Territorial Law Enforcement agencies must notify: (1) their civilian governing body of their intent to request property from Federal sources (including Federal funds or grants) and (2) the local community of their request for property transfers, purchases from Federal funds, agencies or subcontractors (including existing transfer contracts or grants).

The Fruitland Park Police Department may request the below controlled property items from the Law Enforcement Support Office or other Federal sources:

- All-Terrain Vehicle (ATV)
- Binocular
- Blankets
- Breathing Apparatus
- Camera System
- Flashlights
- Floodlight
- Generator Set
- Medical/First Aid Supplies
- Miscellaneous Communication Equipment
- Night Vision Device
- Office Equipment/Supplies
- Night Vision Goggle
- Protective Eyewear
- Range Finder, Laser

A handwritten signature in blue ink, likely belonging to Chief Erik D. Luce, is located in the bottom right corner of the page.



# FRUITLAND PARK POLICE DEPARTMENT

Chief Erik D. Luce

- Red Dot Sight
- Riflescope
- Sight, Bore, Optical
- Sight, Infinity, Reflex
- Spotting Instrument, Optical
- Tents/Portable Shelters
- Thermal Camera & Accessories

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Erik D. Luce", with a long horizontal flourish extending to the right.

Erik D. Luce  
Chief of Police

## Presidential Documents

Executive Order 14074 of May 25, 2022

### Advancing Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

**Section 1. Policy.** Our criminal justice system must respect the dignity and rights of all persons and adhere to our fundamental obligation to ensure fair and impartial justice for all. This is imperative—not only to live up to our principles as a Nation, but also to build secure, safe, and healthy communities. Protecting public safety requires close partnerships between law enforcement and the communities it serves. Public safety therefore depends on public trust, and public trust in turn requires that our criminal justice system as a whole embodies fair and equal treatment, transparency, and accountability.

Law enforcement officers are often a person's first point of contact with our criminal justice system, and we depend on them to uphold these principles while doing the demanding and often life-threatening work of keeping us safe. We expect them to help prevent and solve crimes and frequently call upon them to respond to social problems outside their expertise and beyond their intended role, diverting attention from their critical public safety mission and increasing the risks of an already dangerous job—which has led to the deaths of law enforcement officers and civilians alike. The vast majority of law enforcement officers do these difficult jobs with honor and integrity, and they work diligently to uphold the law and preserve the public's trust.

Yet, there are places in America today, particularly in Black and Brown communities and other communities of color, where the bonds of trust are frayed or broken. We have collectively mourned following law enforcement encounters that have tragically ended in the loss of life. To heal as a Nation, we must acknowledge that those fatal encounters have disparately impacted Black and Brown people and other people of color. The pain of the families of those who have been killed is magnified when expectations for accountability go unmet, and the echoes of their losses reverberate across generations. More broadly, numerous aspects of our criminal justice system are still shaped by race or ethnicity. It is time that we acknowledge the legacy of systemic racism in our criminal justice system and work together to eliminate the racial disparities that endure to this day. Doing so serves all Americans.

Through this order, my Administration is taking a critical step in what must be part of a larger effort to strengthen our democracy and advance the principles of equality and dignity. While we can make policing safer and more effective by strengthening trust between law enforcement officers and the communities they serve, we must also reform our broader criminal justice system so that it protects and serves all people equally. To be clear, certain obstacles to lasting reform require legislative solutions. In particular, system-wide change requires funding and support that only the Congress can authorize. But my Administration will use its full authority to take action, including through the implementation of this order, to build and sustain fairness and accountability throughout the criminal justice system.

The need for such action could not be more urgent. Since early 2020, communities around the country have faced rising rates of violent crime,



to housing, public benefits, health care, trauma-informed services and support, education, nutrition, employment and occupational licensing, credit, the ballot, and other critical opportunities. Lowering barriers to reentry is essential to reducing recidivism and reducing crime.

Finally, no one should be required to serve an excessive prison sentence. When the Congress passed the First Step Act of 2018 (Public Law 115–391), it sought to relieve people from unfair and unduly harsh sentences, including those driven by harsh mandatory minimums and the unjust sentencing disparity between crack and powder cocaine offenses. My Administration will fully implement the First Step Act, including by supporting sentencing reductions in appropriate cases and by allowing eligible incarcerated people to participate in recidivism reduction programming and earn time credits.

With these measures, together we can strengthen public safety and the bonds of trust between law enforcement and the community and build a criminal justice system that respects the dignity and equality of all in America.

**Sec. 2. Sharing of Federal Best Practices with State, Tribal, Local, and Territorial Law Enforcement Agencies to Enhance Accountability.** (a) *Independent Investigations of In-Custody Deaths.* The Attorney General shall issue guidance to State, Tribal, local, and territorial law enforcement agencies (LEAs) regarding best practices for conducting independent criminal investigations of deaths in custody that may involve conduct by law enforcement or prison personnel.

(b) *Improving Training for Investigations into Deprivation of Rights Under Color of Law.* The Attorney General shall assess the steps necessary to enhance the Department of Justice's (DOJ's) capacity to investigate law enforcement deprivation of rights under color of law, including through improving and increasing training of Federal law enforcement officers, their supervisors, and Federal prosecutors on how to investigate and prosecute cases involving the deprivation of rights under color of law pursuant to 18 U.S.C. 242. The Attorney General shall also, as appropriate, provide guidance, technical assistance, and training to State, Tribal, local, and territorial investigators and prosecutors on best practices for investigating and prosecuting civil rights violations under applicable law.

(c) *Pattern or Practice Investigations.* The Attorney General shall consider ways in which the DOJ could strengthen communication with State Attorneys General to help identify relevant data, complaints from the public, and other information that may assist the DOJ's investigations of patterns or practices of misconduct by law enforcement officers, including prosecutors, pursuant to 34 U.S.C. 12601 and other statutes. The Attorney General shall also develop training and technical assistance for State, local, and territorial officials who have similar investigatory authority.

(d) *Ensuring Timely Investigations.* The heads of all Federal LEAs shall assess whether any of their respective agency's policies or procedures cause unwarranted delay in investigations of Federal law enforcement officers for incidents involving the use of deadly force or deaths in custody, including delays in interagency jurisdictional determinations and subject and witness interviews, and shall, without abrogating any collective bargaining obligations, make changes as appropriate to ensure the integrity and effectiveness of such investigations. Within 240 days of the date of this order, the Attorney General, the Secretary of Homeland Security, and the heads of other executive departments and agencies (agencies) with law enforcement authority shall report to the President what, if any, changes to their respective policies or practices they have made.

(e) *Ensuring Thorough Investigations.* The Attorney General shall instruct the Federal Bureau of Investigation (FBI) and all United States Attorneys to coordinate closely with the internal oversight bodies of Federal LEAs to ensure that, without abrogating any collective bargaining obligations, for incidents involving the use of deadly force or deaths in custody, initial

and retention practices in accomplishing the goals of subsection (a) of this section.

(c) The heads of Federal LEAs shall develop and implement protocols for background investigations and screening mechanisms, consistent with the best practices identified and developed pursuant to subsection (a) of this section, for State, Tribal, local, and territorial law enforcement participation in programs or activities over which Federal agencies exercise control, such as joint task forces or international training and technical assistance programs, including programs managed by the Department of State and the Department of Justice.

(d) The Attorney General shall develop guidance regarding best practices for State, Tribal, local, and territorial LEAs seeking to recruit, hire, promote, and retain highly qualified and service-oriented officers. In developing this guidance, the Attorney General shall consult with State, Tribal, local, and territorial law enforcement, as appropriate, and shall incorporate the best practices identified by the interagency working group established pursuant to subsection (a) of this section.

**Sec. 4. Supporting Officer Wellness.** (a) Within 180 days of the date of this order, the Attorney General shall, in coordination with the Secretary of Health and Human Services (HHS), develop and publish a report on best practices to address law enforcement officer wellness, including support for officers experiencing substance use disorders, mental health issues, or trauma from their duties. This report shall:

(i) consider the work undertaken already pursuant to the Law Enforcement Mental Health and Wellness Act of 2017 (Public Law 115–113); and

(ii) identify existing and needed resources for supporting law enforcement officer wellness.

(b) Upon publication of these best practices, the Attorney General and the heads of all other Federal LEAs shall assess their own practices and policies for Federal officer wellness and develop and implement changes as appropriate.

(c) The Attorney General shall, in coordination with the Secretary of HHS and in consultation with multidisciplinary experts and stakeholders, including the National Consortium on Preventing Law Enforcement Suicide and other law enforcement organizations, conduct an assessment of current efforts and available evidence on suicide prevention and present to the President within 180 days of the date of this order evidence-informed recommendations regarding the prevention of death by suicide of law enforcement officers. These recommendations shall also identify methods to encourage submission of data from Federal, State, Tribal, local, and territorial LEAs to the FBI's Law Enforcement Suicide Data Collection, in a manner that respects the privacy interests of law enforcement officers and is consistent with applicable law.

**Sec. 5. Establishing a National Law Enforcement Accountability Database.**

(a) The Attorney General shall, within 240 days of the date of this order, establish the National Law Enforcement Accountability Database (Accountability Database) as a centralized repository of official records documenting instances of law enforcement officer misconduct as well as commendations and awards. The Attorney General shall ensure that the establishment and administration of the Accountability Database is consistent with the Privacy Act of 1974 and all other applicable laws, and respects appropriate due process protections for law enforcement officers included in the Accountability Database.

(b) The Attorney General, in consultation with the heads of other agencies as appropriate, shall take the following actions with respect to the Accountability Database established pursuant to subsection (a) of this section:

(i) include in the Accountability Database all available information that the Attorney General deems necessary, appropriate, and consistent with

and provide technical assistance to encourage State, Tribal, local, and territorial LEAs to integrate use of the Accountability Database established pursuant to subsection (a) of this section into their hiring decisions, consistent with applicable law.

(g) The Attorney General shall ensure that all access to the Accountability Database established pursuant to subsection (a) of this section is consistent with applicable law, and shall also take the following steps related to public access to the Accountability Database:

(i) publish on at least an annual basis public reports that contain anonymized data from the Accountability Database aggregated by law enforcement agency and by any other factor determined appropriate by the Attorney General, in a manner that does not jeopardize law enforcement officer anonymity due to the size of the agency or other factors; and

(ii) assess the feasibility of what records from the Accountability Database may be accessible to the public and the manner in which any such records may be accessible by the public, taking into account the critical need for public trust, transparency, and accountability, as well as the duty to protect the safety, privacy, and due process rights of law enforcement officers who may be identified in the Accountability Database, including obligations under the Privacy Act of 1974 and any other relevant legal obligations; protection of sensitive law enforcement operations; and victim, witness, and source confidentiality.

(h) The Attorney General shall determine whether additional legislation or appropriation of funds is needed to achieve the full objectives of this section.

**Sec. 6. *Improving Use-of-Force Data Collection.*** (a) Within 180 days of the date of this order, the heads of Federal LEAs shall submit data on a monthly basis to the FBI National Use-of-Force Data Collection (Use-of-Force Database), in accordance with the definitions and categories set forth by the FBI. To the extent not already collected, such data shall include either all deaths of a person due to law enforcement use of force (including deaths in custody incident to an official use of force); all serious bodily injuries of a person due to law enforcement use of force; all discharges of a firearm by law enforcement at or in the direction of a person not otherwise resulting in death or serious bodily injury; or, if applicable, a report for each category that no qualifying incidents occurred and:

(i) information about the incident, including date, time, and location; the reason for initial contact; the offenses of which the subject was suspected, if any; the charges filed against the suspect by a prosecutor, if any; and the National Incident-Based Reporting System (NIBRS) record or local incident number of the report;

(ii) information about the subject of the use of force, including demographic data by subcategory to the maximum extent possible; types of force used against the subject; resulting injuries or death; and reason for the use of force, including any threat or resistance from, or weapon possessed by, the subject;

(iii) information about the officers involved, including demographic data by subcategory to the maximum extent possible; years of service in law enforcement and employing agency at the time of the incident; and resulting injuries or death; and

(iv) such other information as the Attorney General deems appropriate.

(b) The Attorney General, in consultation with the United States Chief Technology Officer, shall work with State, Tribal, local, and territorial LEAs to identify the obstacles to their participation in the Use-of-Force Database; to reduce the administrative burden of reporting by using existing data collection efforts and improving those LEAs' experience; and to provide training and technical assistance to those LEAs to encourage and facilitate their regular submission of use-of-force information to the Use-of-Force Database.

implementation and effects of the DOJ's December 2014 Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity; consider whether this guidance should be updated; and report to the President within 180 days of the date of this order as to any changes to this guidance that have been made.

**Sec. 10. Restricting No-Knock Entries.** (a) The heads of Federal LEAs shall, as soon as practicable, but no later than 60 days from the date of this order, ensure that their respective agencies issue policies with requirements that are equivalent to, or exceed, the requirements of the policy issued by the DOJ on September 13, 2021, which limits the use of unannounced entries, often referred to as "no-knock entries," and provides guidance to ensure the safe execution of announced entries.

(b) The heads of Federal LEAs shall maintain records of no-knock entries.

(c) The heads of Federal LEAs shall issue annual reports to the President—and post the reports publicly—setting forth the number of no-knock entries that occurred pursuant to judicial authorization; the number of no-knock entries that occurred pursuant to exigent circumstances; and disaggregated data by circumstances for no-knock entries in which a law enforcement officer or other person was injured in the course of a no-knock entry.

**Sec. 11. Assessing and Addressing the Effect on Communities of Use of Force by Law Enforcement.** (a) The Secretary of HHS shall, within 180 days of the date of this order, conduct a nationwide study of the community effects of use of force by law enforcement officers (whether lawful or unlawful) on physical, mental, and public health, including any disparate impacts on communities of color, and shall publish a public report including these findings.

(b) The Attorney General, the Secretary of HHS, and the Director of OMB shall, within 60 days of the completion of the report described in subsection (a) of this section, provide a report to the President outlining what resources are available and what additional resources may be needed to provide widely and freely accessible mental health and social support services for individuals and communities affected by incidents of use of force by law enforcement officers.

(c) The Attorney General, in collaboration with the heads of other agencies as appropriate, shall issue guidance for Federal, State, Tribal, local, and territorial LEAs on best practices for planning and conducting law enforcement-community dialogues to improve relations and communication between law enforcement and communities, particularly following incidents involving use of deadly force.

(d) Within 180 days of the date of this order, the Attorney General, in collaboration with the heads of other agencies as appropriate, shall issue guidance for Federal, State, Tribal, local, and territorial LEAs, or other entities responsible for providing official notification of deaths in custody, on best practices to promote the timely and appropriate notification of, and support to, family members or emergency contacts of persons who die in correctional or LEA custody, including deaths resulting from the use of force.

(e) After the issuance of the guidance described in subsection (d) of this section, the heads of Federal LEAs shall assess and revise their policies and procedures as necessary to accord with that guidance.

**Sec. 12. Limiting the Transfer or Purchase of Certain Military Equipment by Law Enforcement.** (a) The Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, and the Administrator of General Services shall each review all programs and authorities concerning property transfers to State, Tribal, local, and territorial LEAs, or property purchases by State, Tribal, local, and territorial LEAs either with Federal funds or from Federal agencies or contractors, including existing transfer contracts or grants. Within 60 days of the date of this order, the Secretary of the Treasury, the Secretary of Defense, the Attorney

its intent to request the property and that the request comports with all applicable approval requirements of the local governing body; and

(iv) agrees to return the property if the DOJ determines or a Federal, State, Tribal, local, or territorial court enters a final judgment finding that the LEA has engaged in a pattern or practice of civil rights violations.

**Sec. 13. *Ensuring Appropriate Use of Body-Worn Cameras and Advanced Law Enforcement Technologies.*** (a) The heads of Federal LEAs shall take the following actions with respect to body-worn camera (BWC) policies:

(i) As soon as practicable, but no later than 90 days from the date of this order, the heads of Federal LEAs shall ensure that their respective agencies issue policies with requirements that are equivalent to, or exceed, the requirements of the policy issued by the DOJ on June 7, 2021, requiring the heads of certain DOJ law enforcement components to develop policies regarding the use of BWC recording equipment. The heads of Federal LEAs shall further identify the resources necessary to fully implement such policies.

(ii) For Federal LEAs that regularly conduct patrols or routinely engage with the public in response to emergency calls, the policies issued under subsection (a)(i) of this section shall be designed to ensure that cameras are worn and activated in all appropriate circumstances, including during arrests and searches.

(iii) The heads of Federal LEAs shall ensure that all BWC policies shall be publicly posted and shall be designed to promote transparency and protect the privacy and civil rights of members of the public.

(b) Federal LEAs shall include within the policies developed pursuant to subsection (a)(i) of this section protocols for expedited public release of BWC video footage following incidents involving serious bodily injury or deaths in custody, which shall be consistent with applicable law, including the Privacy Act of 1974, and shall take into account the need to promote transparency and accountability, the duty to protect the privacy rights of persons depicted in the footage, and any need to protect ongoing law enforcement operations.

(c) Within 365 days of the date of this order, the Attorney General, in coordination with the Secretary of HHS and the Director of the Office of Science and Technology Policy (OSTP), shall conduct a study that assesses the advantages and disadvantages of officer review of BWC footage prior to the completion of initial reports or interviews concerning an incident involving use of force, including an assessment of current scientific research regarding the effects of such review. Within 180 days of the completion of that study, the Attorney General, in coordination with the Secretary of HHS, shall publish a report detailing the findings of that study, and shall identify best practices regarding law enforcement officer review of BWC footage.

(d) Within 180 days of the date of this order, the Attorney General shall request the National Academy of Sciences (NAS), through its National Research Council, to enter into a contract to:

(i) conduct a study of facial recognition technology, other technologies using biometric information, and predictive algorithms, with a particular focus on the use of such technologies and algorithms by law enforcement, that includes an assessment of how such technologies and algorithms are used, and any privacy, civil rights, civil liberties, accuracy, or disparate impact concerns raised by those technologies and algorithms or their manner of use; and

(ii) publish a report detailing the findings of that study, as well as any recommendations for the use of or for restrictions on facial recognition technologies, other technologies using biometric information, and predictive algorithms by law enforcement.

(e) The Attorney General, the Secretary of Homeland Security, and the Director of OSTP shall jointly lead an interagency process regarding the

Reentry Committee (Committee), to be chaired by the Assistant to the President for Domestic Policy.

(b) Committee members shall include:

- (i) the Secretary of the Treasury;
- (ii) the Attorney General;
- (iii) the Secretary of the Interior;
- (iv) the Secretary of Agriculture;
- (v) the Secretary of Commerce;
- (vi) the Secretary of Labor;
- (vii) the Secretary of HHS;
- (viii) the Secretary of Housing and Urban Development;
- (ix) the Secretary of Transportation;
- (x) the Secretary of Energy;
- (xi) the Secretary of Education;
- (xii) the Secretary of Veterans Affairs;
- (xiii) the Secretary of Homeland Security;
- (xiv) the Director of OMB;
- (xv) the Administrator of the Small Business Administration;
- (xvi) the Counsel to the President;
- (xvii) the Chief of Staff to the Vice President;
- (xviii) the Chair of the Council of Economic Advisers;
- (xix) the Director of the National Economic Council;
- (xx) the Director of OSTP;
- (xxi) the Director of National Drug Control Policy;
- (xxii) the Director of the Office of Personnel Management;
- (xxiii) the Chief Executive Officer of the Corporation for National and Community Service;
- (xxiv) the Executive Director of the Gender Policy Council; and
- (xxv) the heads of such other executive departments, agencies, and offices as the Chair may designate or invite.

(c) The Committee shall consult and coordinate with the DOJ Reentry Coordination Council, which was formed in compliance with the requirement of the First Step Act that the Attorney General convene an interagency effort to coordinate on Federal programs, policies, and activities relating to the reentry of individuals returning from incarceration to the community. See sec. 505(a) of the First Step Act. The Committee may consult with other agencies; Government officials; outside experts; interested persons; service providers; nonprofit organizations; law enforcement organizations; and State, Tribal, local, and territorial governments, as appropriate.

(d) The Committee shall develop and coordinate implementation of an evidence-informed strategic plan across the Federal Government within 200 days of the date of this order to advance the following goals, with particular attention to reducing racial, ethnic, and other disparities in the Nation's criminal justice system:

- (i) safely reducing unnecessary criminal justice interactions, including by advancing alternatives to arrest and incarceration; supporting effective alternative responses to substance use disorders, mental health needs, the needs of veterans and people with disabilities, vulnerable youth, people who are victims of domestic violence, sexual assault, or trafficking, and people experiencing homelessness or living in poverty; expanding the

(i) updating Federal Bureau of Prisons (BOP) and United States Marshals Service (USMS) procedures and protocols, in consultation with the Secretary of HHS, as appropriate, to facilitate COVID-19 testing of BOP staff and individuals in BOP custody who are asymptomatic or symptomatic and do not have known, suspected, or reported exposure to SARS-CoV-2, the virus that causes COVID-19;

(ii) updating BOP and USMS procedures and protocols, in consultation with the Secretary of HHS, to identify alternatives consistent with public health recommendations to the use of facility-wide lockdowns to prevent the transmission of SARS-CoV-2, or to the use of restrictive housing for detainees and prisoners who have tested positive for SARS-CoV-2 or have known, suspected, or reported exposure;

(iii) identifying the number of individuals who meet the eligibility requirements under the CARES Act (Public Law 116-136), the First Step Act, 18 U.S.C. 3582(c), 18 U.S.C. 3622, and 18 U.S.C. 3624, for release as part of the DOJ's efforts to mitigate the impact and spread of COVID-19; and

(iv) expanding the sharing and publication of BOP and USMS data, in consultation with the Secretary of HHS, regarding vaccination, testing, infections, and fatalities due to COVID-19 among staff, prisoners, and detainees, in a manner that ensures the thoroughness and accuracy of the data; protects privacy; and disaggregates the data by race, ethnicity, age, sex, disability, and facility, after consulting with the White House COVID-19 Response Team, HHS, and the Equitable Data Working Group established in Executive Order 13985 of January 20, 2021 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government), as appropriate.

(b) The Attorney General shall take the following actions relating to other conditions of confinement in Federal detention facilities:

(i) within 180 days of the date of this order, submit a report to the President detailing steps the DOJ has taken, consistent with applicable law, to ensure that restrictive housing in Federal detention facilities is used rarely, applied fairly, and subject to reasonable constraints; to ensure that individuals in DOJ custody are housed in the least restrictive setting necessary for their safety and the safety of staff, other prisoners and detainees, and the public; to house prisoners as close to their families as practicable; and to ensure the DOJ's full implementation, at a minimum, of the Prison Rape Elimination Act of 2003 (Public Law 108-79) and the recommendations of the DOJ's January 2016 Report and Recommendations Concerning the Use of Restrictive Housing; and

(ii) within 240 days of the date of this order, complete a comprehensive review and transmit a report to the President identifying any planned steps to address conditions of confinement, including steps designed to improve the accessibility and quality of medical care (including behavioral and mental health care), the specific needs of women (including breast and cervical cancer screening, gynecological and reproductive health care, and prenatal and postpartum care), the specific needs of juveniles (including age-appropriate programming), recovery support services (including substance use disorder treatment and trauma-informed care), and the environmental conditions for all individuals in BOP and USMS custody.

**Sec. 17. *Advancing First Step Act Implementation.*** (a) The Attorney General is reviewing and updating as appropriate DOJ regulations, policies, and guidance in order to fully implement the provisions and intent of the First Step Act, and shall continue to do so consistent with the policy announced in section 1 of this order. Within 180 days of the date of this order and annually thereafter, the Attorney General shall, in consultation with the Director of OMB, submit a report to the President summarizing:

(i) the rehabilitative purpose for each First Step Act expenditure and proposal for the prior and current fiscal years, detailing the number of available and proposed dedicated programming staff and resources, the

calls for service, searches, stops, frisks, seizures, arrests, complaints, law enforcement demographics, and civil asset forfeiture.

(ii) Within 365 days of the date of this order, the Working Group shall assess practices and policies governing the acquisition, use, and oversight of advanced surveillance and forensic technologies, including commercial cyber intrusion tools, by Federal, State, Tribal, local, and territorial law enforcement, and shall include in the report referenced in subsection (c)(i) of this section recommendations based on this assessment that promote equitable, transparent, accountable, constitutional, and effective law enforcement practices.

**Sec. 19. *Establishing Accreditation Standards.*** (a) The Attorney General shall develop and implement methods to promote State, Tribal, local, and territorial LEAs seeking accreditation by an authorized, independent credentialing body, including by determining what discretionary grants shall require that the LEA be accredited or be in the process of obtaining accreditation.

(b) Within 240 days of the date of this order, the Attorney General shall develop and publish standards for determining whether an entity is an authorized, independent credentialing body, including that the entity requires policies that further the policies in sections 3, 4, and 7 through 10 of this order, and encourages participation in comprehensive collection and use of police misconduct and use-of-force-data, such as through the databases provided for in sections 5 and 6 of this order. In developing such standards, the Attorney General shall also consider the recommendations of the Final Report of the President's Task Force on 21st Century Policing issued in May 2015. Pending the development of such standards, the Attorney General shall maintain the current requirements related to accreditation.

(c) The Attorney General, in formulating standards for accrediting bodies, shall consult with professional accreditation organizations, law enforcement organizations, civil rights and community-based organizations, civilian oversight and accountability groups, and other appropriate stakeholders. The Attorney General's standards shall ensure that, in order to qualify as an authorized, independent credentialing body, the accrediting entity must conduct independent assessments of an LEA's compliance with applicable standards as part of the accreditation process and not rely on the LEA's self-certification alone.

**Sec. 20. *Supporting Safe and Effective Policing Through Grantmaking.*** (a) Within 180 days of the date of this order, the Attorney General, the Secretary of HHS, and the Secretary of Homeland Security shall promptly review and exercise their authority, as appropriate and consistent with applicable law, to award Federal discretionary grants in a manner that supports and promotes the adoption of policies of this order by State, Tribal, local, and territorial governments and LEAs. The Attorney General, the Secretary of HHS, and the Secretary of Homeland Security shall also use other incentives outside of grantmaking, such as training and technical assistance, as appropriate and consistent with applicable law, to support State, Tribal, local, and territorial governments and LEAs in adopting the policies in this order.

(b) On September 15, 2021, the Associate Attorney General directed a review of the DOJ's implementation and administrative enforcement of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 200d *et seq.*, and of the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968, 34 U.S.C. 10228, in connection with Federal financial assistance the DOJ provides, to ensure that the DOJ is providing sufficient oversight and accountability regarding the activities of its federally funded recipients.

(i) Within 30 days of the date of this order, and consistent with any other applicable guidance issued by the Attorney General, the head of every other Federal agency that provides grants to State, local, and territorial LEAs shall commence a similar review of its law enforcement-related grantmaking operations and the activities of its grant recipients.



(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to read "J. R. Biden, Jr.", written in a cursive style.

THE WHITE HOUSE,  
*May 25, 2022.*

[FR Doc. 2022-11810  
Filed 5-27-22; 11:15 am]  
Billing code 3395-F2-P

**CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 9c**

**ITEM TITLE:** AV Audio System – Community Center Quotes

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Thursday, November 3, 2022

**SUBMITTED BY:** City Manager/Parks and Recreation Director

**BRIEF NARRATIVE:** **Itemized Quotes** for the installation of an audio system to include speakers, main panel control system, microphones, amplifiers:

- Control Freak - \$45,711.82
- Casaplex - \$57,142.07

**FUNDS REQUIRED:** \$45,711.82 (20511-60636)

**ATTACHMENTS:** Quotes

**RECOMMENDATION:** Both systems are compatible. Approve Control Freak as they are located locally in Orlando, Florida.

**ACTION:** **Approve the award to the lowest, responsive and responsible bidder Control Freak.**

# INVOICE

**BILL TO**

Michelle Yoder  
Fruitland Park - Parks and  
Recreation  
205 W Berkman Street  
Fruitland Park, FL 34731

**SHIP TO**

Michelle Yoder  
Fruitland Park - Parks and  
Recreation  
205 W Berkman Street  
Fruitland Park, FL 34731

**INVOICE #** 1282

**DATE** 10/04/2022

**DUE DATE** 11/03/2022

**TERMS** Net 30

**SALESPERSON**

Eric Machuca

**TERMS**

60% down 40% on completion

**ROOM**

Events Hall/ Ballroom

| ACTIVITY   | QTY | RATE     | AMOUNT    |
|--|-----|----------|-----------|
| <b>CRESTRON RMC 4</b><br>4-Series™ Control System  | 1   | 770.00   | 770.00T   |
| <b>CRESTRON TSW-770W-S</b><br>7 in. Room Scheduling Touch Screen, White Smooth   | 1   | 970.00   | 970.00T   |
| <b>CRESTRON DSP-1281</b><br>Crestron Avia™ 12x8 Digital Signal Processor w/Dante®™   | 1   | 2,300.00 | 2,300.00T |
| <b>NETGEAR GS724TV4</b><br>NETGEAR 24P GE SMART MANAGED PRO SWITCH   | 1   | 387.89   | 387.89T   |
| <b>AUTONOMIC AU-MMS-1E</b><br>eSeries Music Streamer   | 1   | 749.00   | 749.00T   |
| <b>RDL DD-BN2ML</b><br>Wall-Mounted Bi-Directional Line-Level and Bluetooth® Audio Dante Interface   | 1   | 653.98   | 653.98T   |
| <b>SHURE ULX-D4 H50</b><br>SINGLE DIGITAL WIRELESS RECEIVER WITH PS41US POWER<br>SUPPLY, 1/2 WAVE ANTENNA AND<br>RACK MOUNTING HARDWARE 1/2 WAVE ANTENNA AND RACK MOUNTING<br>HARDWARE | 2   | 1,040.00 | 2,080.00T |
| <b>SHURE ULX-D2/B58 H50</b><br>ULX-D DIGITAL WIRELESS HANDHELD TRANSMITTER WITH BETA 58A®<br>MICROPHONE / HANDHELD MIC COMPONENT   | 2   | 650.00   | 1,300.00T |
| <b>SHURE ULX-D1 H50</b><br>DIGITAL WIRELESS BODYPACK TRANSMITTER WITH MINIATURE 4-PIN<br>CONNECTOR H50 (534.000 – 597.925 MHZ)   | 2   | 525.00   | 1,050.00T |
| <b>SHURE WL185</b><br>MICROFLEX® CARDIOID LAVALIER MICROPHONE  | 2   | 135.00   | 270.00T   |
| <b>SHURE UA221</b><br>PASSIVE ANTENNA SPLITTER/COMBINER KIT-INCLUDES 2<br>SPLITTER/COMBINERS, 4 COAXIAL CABLES, & HARDWARE   | 2   | 232.00   | 464.00T   |
| <b>SHURE UA BIAST</b><br>IN-LINE ADAPTER. SUPPLIES 12V DC BIAS POWER OVER COAXIAL BNC<br>CABLE, INCLUDES PS23US  | 2   | 125.00   | 250.00T   |
| <b>SHURE UA834WB</b>   | 6   | 250.00   | 1,500.00T |

| ACTIVITY   | QTY | RATE     | AMOUNT    |
|--|-----|----------|-----------|
| IN-LINE ANTENNA AMP FOR REMOTE MOUNTING / COMPENSATES FOR INSERTION LOSS IN COAX CABLE (470-902 MHZ)                                       |     |          |           |
| <b>SHURE UA864</b><br>LOW PROFILE WALL- OR CEILING-MOUNTED WIDEBAND ANTENNA / WORKS WITH ULXD, UHFR, ULX, AND AXIENT                       | 4   | 585.00   | 2,340.00T |
| <b>SHURE UA8100</b><br>100' UHF REMOTE ANTENNA EXTENSION CABLE, BNC-BNC, RG213/U TYPE  | 4   | 358.00   | 1,432.00T |
| <b>SHURE UA850</b><br>50' UHF REMOTE ANTENNA EXTENSION CABLE, BNC-BNC, RG8X/U TYPE, 50 OHM   | 2   | 146.00   | 292.00T   |
| <b>CROWN DCI 2/600</b><br>2CH POWER AMPLIFIER 600W @ 4OHM WITH BLU LINK, 70V 100V  | 1   | 1,995.00 | 1,995.00T |
| <b>EPISODE ECA-70VMINI-60W</b><br>70V Digital Amplifier   60W x 1 Channel  | 1   | 500.00   | 500.00T   |
| <b>TANNOY CVS8</b><br>Tannoy CVS 8 Coaxial In-Ceiling Loudspeaker (Pair, 8", White)  | 11  | 500.00   | 5,500.00T |
| <b>WATTBOX WB-800CH1U-IPVM-8</b><br>1U Integrated Faceplate IP Power Conditioner   8 Individually Metered and Controlled Outlets           | 1   | 849.95   | 849.95T   |
| <b>CYBER POWER CPS1220RM</b><br>Basic PDU, 120V/15A, 12 Outlets, 15ft Power Cord, 1U Rackmount with surge protection                       | 1   | 115.00   | 115.00T   |
| <b>STRONG SR-FS-SYSTEM-DC-27U</b><br>Strong® FS Series Rack System with DC Fans  | 1   | 1,060.00 | 1,060.00T |
| <b>MIDDLE ATLANTIC D4</b><br>Heavy-Duty Rack Drawer  | 1   | 290.00   | 290.00T   |
| <b>MIDDLE ATLANTIC LT-GN-PNL</b><br>1RU Space, Dual Gooseneck Light with Rackmount Panel   | 1   | 135.00   | 135.00T   |
| <b>MIDDLE ATLANTIC EB1-CP12</b><br>1 RU Blank Rack Panel, Steel & Flanged - 12 Piece Contractor Pack                                       | 1   | 135.00   | 135.00T   |
| <b>GENESIS 63612108</b><br>CAT 6 UTP CMP 1000' BLACK   | 2   | 499.00   | 998.00T   |
| <b>WEST PENN 25225B</b><br>1000' 1P 16G STRD UNSHLD PLENII   | 2   | 345.00   | 690.00T   |
| <b>WEST PENN 25291BBK1000</b><br>1000' 1P 20G STRD SHLD PLEN II  | 1   | 185.00   | 185.00T   |
| <b>Miscellaneous</b><br>Cable, connectors and hardware   | 1   | 1,550.00 | 1,550.00T |
| <b>Professional Installation Services</b><br>Professional Installation Services - Installation of Event Hall/ Ballroom AV System - Phase 1 | 100 | 95.00    | 9,500.00  |
| <b>Professional Engineering /Drafting</b><br>Professional Engineering and Drafting Services  | 20  | 125.00   | 2,500.00  |
| <b>Professional Programming Services</b><br>Professional Programming Services  | 20  | 145.00   | 2,900.00  |

60% Deposit = \$27,493.09  
40% Upon completion = \$18,328.73

|          |           |
|----------|-----------|
| SUBTOTAL | 45,711.82 |
| TAX (0%) | 0.00      |
| TOTAL    | 45,711.82 |

\*All necessary high voltage electrical work to be done is the responsibility of the client and should be performed by a licensed electrician

BALANCE DUE

**\$45,711.82**

\*Client is to provide an adequate scissor lift to complete the project. Any equipment rental is not reflected on the estimate and shall be added to the final invoice if necessary.

\*Shipping not included. Any shipping cost incurred will be invoiced to the customer post delivery and installation.

PRICES SUBJECT TO CHANGE- PRICES BASED UPON TOTAL PURCHASE-GENERALLY ALL HARDWARE COMPONENTS PROPOSED ABOVE ARE COVERED BY A LIMITED ONE YEAR WARRANTY, COVERING PARTS AND LABOR. PROGRAMMING IS COVERED BY A NINETY DAY WARRANTY. WE SHALL NOT BE RELIABLE FOR ANY LOSS OF PROFITS, BUSINESS, GOODWILL, DATA, INTERRUPTION OF BUSINESS, NOR FOR INCIDENTAL OR CONSEQUENTIAL MERCHANTABILITY OR FITNESS OF PURPOSE, DAMAGES RELATED TO THIS AGREEMENT. MINIMUM 15% RESTOCKING FEE WITH THE ORIGINAL PACKAGING.



CASAPLEX LLC  
10582 METROPOLITAN AVE  
KENSINGTON, MD 20895  
2025586519

**QUOTATION** 26942

DATE **October 18, 2022**  
EXIPRY DATE  
SALES REP **JMERCER**

**QUOTATION NAME: NEW QUOTE - AV**

**CLIENT DETAILS**

**Fruitland Park & Recreation**  
**205 W Berkman Street**  
**Fruitland Park, FL 34731**

**CONTACT**

**Walter Birriel (703) 552 1225**

**JOB LOCATION**

**Fruitland Park & Recreation**  
**205 W Berkman Street**  
**Fruitland Park, FL 34731**

**CONTACT**

**Walter Birriel (703) 552 1225**

**SCOPE:**





CASAPLEX LLC  
 10582 METROPOLITAN AVE  
 KENSINGTON, MD 20895  
 2025586519

**QUOTATION** 26942

DATE **October 18, 2022**  
 EXIPRY DATE  
 SALES REP **JMERCER**

|  |             |
|--|-------------|
| (1) 4-Series? Control System   | \$924.06    |
| (1) 7 in. Room Scheduling Touch Screen,White Smooth  | \$1,165.82  |
| (1) TesiraFORT CIFixed I/O DSP with 12 analog inputs, 8 analog outputs, 8 channels configurable USB aud  | \$4,440.00  |
| (1) NETGEAR 24P GE SMART MANAGED PRO SWITCH  | \$465.47    |
| (1) MMS-1e Single-source*, Hi-Res Mirage Music Streamer  | \$898.80    |
| (1) Wall-Mounted Bi-Directional Line-Level and Bluetooth® Audio Dante Interface                          | \$784.78    |
| (2) Single Digital Wireless Receiver with PS41US Power Supply, 1/2 Wave Antenna and Rack Mounting Hardwa | \$2,496.00  |
| (2) Handheld Transmitter with BETA 58A Microphone  | \$1,560.00  |
| (2) Digital Wireless Bodypack Transmitter with Miniature 4-Pin Connector                                 | \$1,260.00  |
| (2) Microflex Cardioid Lavalier Microphone   | \$324.00    |
| (2) Passive Antenna Splitter/Combiner Kit. Includes Two Splitter/Combiners, Four Coaxial Cables, and Att | \$556.80    |
| (2) In-line adapter. Supplies 12V DC bias power over coaxial BNC cable, includes PS23US                  | \$300.00    |
| (6) In-line antenna amplifier for remote mounting. (470-902 MHz)   | \$1,800.00  |
| (4) Wall-Mounted Wideband Antenna  | \$2,808.00  |
| (4) 100' UHF Remote Antenna Extension Cable, BNC-BNC, RG213/U Type                                       | \$1,718.40  |
| (2) 50' UHF Remote Antenna Extension Cable, BNC-BNC, RG8X/U Type   | \$350.40    |
| (1) Two-channel, 600W @ 4 Analog Power Amplifier, 70V/100V   | \$2,394.00  |
| (1) Episode 70V Digital Amplifier, 60W with IR & RS232   | \$600.00    |
| (11) Tannoy CVS 8 Coaxial In-Ceiling Loudspeaker (Pair, 8", White)                                       | \$6,600.00  |
| (1) WattBox 1U Integrated Faceplate IP Power Conditioner   8 Individually Metered and Controlled Outlet  | \$1,019.94  |
| (1) Basic PDU, 120V/15A, 12 Outlets, 15ft Power Cord, 1U Rackmount with surge protection                 | \$138.00    |
| (1) Strong? FS Series Rack System with DC Fans - 24 Depth   27U  | \$1,272.00  |
| (1) 4SP ANODIZED DRAWER  | \$348.00    |
| (1) 1SP,DUAL LED LIGHT PANEL   | \$155.00    |
| (1) 12PC. EB1 CONTRACT PACK  | \$155.00    |
| (2) 23/4PR CT6 CMP SPNLS 1M RBX BLACK  | \$1,197.60  |
| (2) 1000' 1P 16G STRD UNSHLD PLENII  | \$828.00    |
| (1) 1000' 1P 20G STRD SHLD PLEN II   | \$222.00    |
| (1) Misc Materials - Wire, Wire Management, Connectors, Plates, Inserts, Interconnects                   | \$1,860.00  |
| (100) Installation Services  | \$12,000.00 |
| (20) Design Services   | \$3,000.00  |
| (20) Programming Services  | \$3,500.00  |

**TOTAL:** \$57,142.07

**TOTAL:** **\$57,142.07**



CASAPLEX LLC  
10582 METROPOLITAN AVE  
KENSINGTON, MD 20895  
2025586519

**QUOTATION** 26942

DATE **October 18, 2022**  
EXIPRY DATE  
SALES REP **JMERCER**

PRICES VALID FOR 30 DAYS

*Signature* *Walter Birriel* *Date*

|                  |                    |
|------------------|--------------------|
| <b>SUBTOTAL:</b> | <b>\$57,142.07</b> |
| <b>TAX:</b>      | <b>\$2,704.95</b>  |
| <b>TOTAL:</b>    | <b>\$59,847.02</b> |

COMMENTS



**CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 9d**

**ITEM TITLE:** Second Reading and Public Hearing Ordinance  
2022-020 Increase Water Rate

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Monday, October 14, 2022

**SUBMITTED BY:** City Treasurer

**BRIEF NARRATIVE:** First Reading and Public Hearing Ordinance 2022-020 amending Chapter 50.30, Water Rates. The city commission may increase water usage rates by 7.5%, the CPI-U January 2022. The volumetric rate (cost of 1000 gallons) will be increased 3.5% per 1000 gallons, per commission decision at first reading. This increases residential usage \$.11 per 1000 gallons. (The first reading was held on October 13, 2022.)

**FUNDS REQUIRED:**

**ATTACHMENT** Ordinance, rate tables/water and irrigation rates budget, CPI News Release and affidavit.

**RECOMMENDATION:** Approve Ordinance 2022-020

**ACTION:** Enact Ordinance 2022-020 to become effective immediately as provided by law.

## **ORDINANCE 2022-020**

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, FLORIDA AMENDING SECTION 50.30 IN CHAPTER 50 OF THE FRUITLAND PARK CODE OF ORDINANCES TO ADJUST THE WATER UTILITY RATES BASED ON JANUARY 2022 CONSUMER PRICE INDEX; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Fruitland Park owns, operates and maintains a potable water services utility; and

**WHEREAS**, the City of Fruitland Park provides potable water within its utility district and charges its customers a water utility rate for providing such service; and

**WHEREAS**, the City Commission has determined that it is necessary to amend the ordinance governing the water systems for the City of Fruitland Park to meet the cost of providing water service to the customers of the water system and

**WHEREAS**, the City Commission enacted Ordinance 2005-031 which allowed for adjustment of water and wastewater rates in accordance with changes to the cost of living; and

**WHEREAS**, the City Commission of the City of Fruitland Park has accordingly determined that it is necessary to uniformly increase water usage rate by 7.5%; and

**WHEREAS**, the City of Fruitland Park has provided notice of the proposed increase to each customer through the utility's billing process as is required by 180.136, Florida Statutes; and

NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, FLORIDA AS FOLLOWS:

### **Section 1. Recitals.**

The above recitals are true and correct and, by this reference, are hereby incorporated into the made an integral part of this ordinance.

### **Section 2. Water Rates**

That Sections 50.30(A) and (B) in Chapter 50, of the Fruitland Park Code of Ordinances are hereby amended to read as follows:

#### **Sec. 50.30. Charge or rate for water services.**

Any user for the services of the waterworks system of the city shall pay therefore the following rates for water services beginning November 10, 2022, which rates shall be applicable to all customers of the waterworks system, except as otherwise provided hereafter:

- (A) Water service inside the city.

1. Except as provided in subsection 2, water rates within the city shall be calculated by adding the base rate to the tier-based charge per 1,000 gallons of actual consumptive use. Effective November 10, 2022 the base rate and the charge per 1,000 gallons of actual use shall be as follows:

**Single Family Residential Water Rates - Inside City**

Effective 11/10/2022

**Base Rate**

|                     |         |
|---------------------|---------|
| ¾" Meter or Smaller | \$17.10 |
| 1" Meter            | 28.50   |
| 1½" Meter           | 57.00   |
| 2" Meter            | 91.20   |

**Volumetric Rate [1]**

|                           |         |
|---------------------------|---------|
| Block 1 Per 1,000 Gallons | \$ 3.26 |
| Block 2 Per 1,000 Gallons | 6.51    |
| Block 3 Per 1,000 Gallons | 9.77    |
| Block 4 Per 1,000 Gallons | 13.03   |

**Multi-Family and Commercial Residential Water Rates - Inside City**

**Base Rate**

|                     |        |
|---------------------|--------|
| ¾" Meter or Smaller | \$17.1 |
| 1" Meter            | 28.50  |
| 1½ " Meter          | 57.00  |
| 2" Meter            | 91.20  |
| 3" Meter            | 171.0  |
| 4" Meter            | 285.0  |
| 6" Meter            | 570.0  |
| 8" Meter            | 912.0  |
| 10" Meter           | 1,311  |
|                     | .00    |

**Volumetric Rate [2]**

|                             |      |
|-----------------------------|------|
| All Usage Per 1,000 Gallons | \$   |
|                             | 3.26 |

**Single Family Residential Irrigation Rates - Inside City Base Rate**

|                     |       |
|---------------------|-------|
| ¾" Meter or Smaller | \$17. |
| 1" Meter            | 28.5  |
| 1½" Meter           | 57.0  |
| 2" Meter            | 91.2  |
|                     | 0     |

**Volumetric Rate**

|                           |      |
|---------------------------|------|
| Block 1 Per 1,000 Gallons | 6.51 |
| Block 2 Per 1,000 Gallons | 9.77 |
| Block 3 Per 1,000 Gallons | 13.0 |

**Multi-Family and Commercial Residential Water Rates - Inside City Base Rate**

|                     |        |
|---------------------|--------|
| ¾" Meter or Smaller | \$17.1 |
| 1" Meter            | 28.50  |
| 1½" Meter           | 57.00  |
| 2" Meter            | 91.20  |
| 3" Meter            | 171.0  |
| 4" Meter            | 285.0  |
| 6" Meter            | 570.0  |
| 8" Meter            | 912.0  |
| 10" Meter           | 1,311  |

2. The bulk potable water rate within the city for water provided to Central Sumter Utility Company, LLC, shall be a bulk rate per 1,000 gallons. The rate will be adjusted any time the city adjusts the base rate for residential water by the same percentage increase or decrease in the city's base rate for residential water. Effective November 10, 2022, the charge per 1,000 gallons of actual use shall be as follows:

|                                   |                       |
|-----------------------------------|-----------------------|
|                                   | Effective<br>11/10/22 |
| All consumption per 1,000 gallons | \$ 1.81               |

- (B) Water service outside the city.

Users receiving service outside the city limits shall pay a charge of 125 percent of the rates set forth in subsection (A),1. above. The water rates shall be calculated by adding the base rate to the tier-based charge per 1,000 gallons of actual consumptive use. Effective November 10, 2022, the base rate and the charge per 1,000 gallons of actual use shall be as follows:

|  |             |           |
|--|-------------|-----------|
| <b><u>Single Family Residential Water Rates – Outside City</u></b> |             | Effective |
| <b>Base</b>  | <b>Rate</b> | 11/10/22  |
| ¾" Meter or Smaller  |             | \$21.38   |
| 1" Meter   |             | 35.63     |
| 1½" Meter  |             | 71.25     |
| 2" Meter   |             | 114.00    |

|                           |         |
|---------------------------|---------|
| Volumetric Rate           |         |
| Block 1 Per 1,000 Gallons | \$ 4.07 |
| Block 2 Per 1,000 Gallons | 8.14    |
| Block 3 Per 1,000 Gallons | 12.21   |
| Block 4 Per 1,000 Gallons | 16.29   |

**Multi-Family and Commercial Residential Water Rates – Outside City Base Rate**

|                     |       |
|---------------------|-------|
| ¾" Meter or Smaller | \$21. |
| 1" Meter            | 35.6  |

|           |        |
|-----------|--------|
| 1½" Meter | 71.25  |
| 2" Meter  | 114.0  |
| 3" Meter  | 213.7  |
| 4" Meter  | 356.2  |
| 6" Meter  | 712.5  |
| 8" Meter  | 1,140. |
| 10" Meter | 1,638. |
|           | 75     |

Volumetric Rate  
All Usage Per 1,000 Gallons \$

**Summary of Monthly Water Tiered-Based Range Charge Per 1,000 Gallons**

[1] **Consumption ranges for single family residential customers shall vary by meter size as follows:**

| Single Family Residential Consumption Ranges |             |                     |                     |         |  |  |
|--|-------------|---------------------|---------------------|---------|--|--|
| Meter Size                                   | Block 1     | Block 2             | Block 3             | Block 4 |  |  |
| ¾" or 1"                                     | 0 to 8,001  | to 13,001           | to 16,001 to 24,000 | Above   |  |  |
| 1½" Meter                                    | 0 to 27,001 | to 53,001 to 80,000 | Above               |         |  |  |
| 2" Meter                                     | 0 to 43,001 | to 85,001 to        | Above               |         |  |  |

[2] **Consumption ranges for irrigation customer shall vary by meter size as follows:**

| Irrigation Consumption Ranges |                |                        |              |
|-------------------------------|----------------|------------------------|--------------|
| Meter Size                    | Block 1        | Block 2                | Block 3      |
| ¾" or 1"                      | 0 to 16,000    | 16,001 to 24,000       | Above 24,000 |
| 1"                            | 0 to 27,000    | 27,001 to 40,000       | Above 40,000 |
| 1½" Meter                     | 0 to 53,000    | 53,001 to 80,000       | Above 80,000 |
| 2" Meter                      | 0 to 85,000    | 85,001 to 128,000      | Above        |
| 3" Meter                      | 0 to 160,000   | 160,001 to 240,000     | Above        |
| 4" Meter                      | 0 to 267,000   | 267,001 to 400,000     | Above        |
| 6" Meter                      | 0 to 533,000   | 533,001 to 800,000     | Above        |
| 8" Meter                      | 0 to 853,000   | 853,001 to 1,280,000   | Above        |
| 10" Meter                     | 0 to 1,227,000 | 1,227,001 to 1,840,000 | Above        |

A surcharge of 25% is applied to customers located outside City limits as allowable by Florida Statutes, Chapter 180.191 (1).

**Section 3. Conflicts and Ordinances Repealed**

All Ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 4. Severability.**

If any section, sentence, phrase, or word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

**Section 5. Codification.**

It is the intent of the City Commission of the City of Fruitland Park that the provisions of this chapter shall become and made a part of the Fruitland Park Code of Ordinances; and grants authority to the codifier to renumber or re-letter sections, and change the words in this ordinance to section, article, chapter or such other appropriate word or phrase in order to accomplish such intentions.

**Section 6. Effective Date.**

This ordinance shall be effective immediately upon adoption; however, the water rate adjustments shall be implemented November 10, 2022.

PASSED AND DULY ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by the City of Fruitland Park, Florida.

\_\_\_\_\_  
Christopher Cheshire, Mayor

Attest:

\_\_\_\_\_  
Esther Coulson, City Clerk, MMC

|                       |       |        |       |       |       |              |       |          |
|-----------------------|-------|--------|-------|-------|-------|--------------|-------|----------|
| Mayor Cheshire        | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Vice Mayor Gunter     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Bell     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner DeGrave  | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Mobilian | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |

First Reading

Second Reading

Approved as to form and legality:

\_\_\_\_\_  
Anita Geraci-Carver, City Attorney

IRRIG RATES BUDGET FY2023

| <b>FY2023 3/4" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                  | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS          | IRRI75                  | IRCI75                 |                        |                       |
| BASE RATE   |                  | 17.10                   | 17.10                  |                        |                       |
| BLOCK 1 (per 1K)  | 0-16,000         | 6.27                    | 6.27                   |                        |                       |
| BLOCK 2   | 16,001-24,000    | 9.41                    | 9.41                   |                        |                       |
| BLOCK 3   | 24,001-9,999,999 | 12.54                   | 12.54                  |                        |                       |

Usage only  
3.50%

| <b>FY2023 1.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                  | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS          | IRRI10                  | IRCI10                 |                        |                       |
| BASE RATE   |                  | 28.50                   | 28.50                  |                        |                       |
| BLOCK 1 (per 1K)  | 0-27,000         | 6.27                    | 6.27                   |                        |                       |
| BLOCK 2   | 27,001-40,000    | 9.41                    | 9.41                   |                        |                       |
| BLOCK 3   | 40,001-9,999,999 | 12.54                   | 12.54                  |                        |                       |

| <b>FY2023 1.5" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                  | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS          | IRRI15                  | IRCI15                 |                        |                       |
| BASE RATE   |                  | 57.00                   | 57.00                  |                        |                       |
| BLOCK 1 (per 1K)  | 0-53,000         | 6.27                    | 6.27                   |                        |                       |
| BLOCK 2   | 53,001-80,000    | 9.41                    | 9.41                   |                        |                       |
| BLOCK 3   | 80,001-9,999,999 | 12.54                   | 12.54                  |                        |                       |

| <b>FY2023 2.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|-------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS           | IRRI20                  | IRCI20                 |                        |                       |
| BASE RATE   |                   | 91.20                   | 91.20                  |                        |                       |
| BLOCK 1 (per 1K)  | 0-85,000          | 6.27                    | 6.27                   |                        |                       |
| BLOCK 2   | 85,001-128,000    | 9.41                    | 9.41                   |                        |                       |
| BLOCK 3   | 128,001-9,999,999 | 12.54                   | 12.54                  |                        |                       |

IRRIG RATES BUDGET FY2023

| <b>FY2023 3.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|-------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | <b>GALLONS</b>    |                         | <b>IRCI30</b>          |                        |                       |
| BASE RATE   |                   |                         | 171.00                 |                        |                       |
| BLOCK 1 (per 1K)  | 0-160,000         |                         | 6.27                   |                        |                       |
| BLOCK 2   | 160,001-240,000   |                         | 9.41                   |                        |                       |
| BLOCK 3   | 240,001-9,999,999 |                         | 12.54                  |                        |                       |

NEW 25%

| <b>FY2023 4.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|-------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | <b>GALLONS</b>    |                         | <b>IRCI40</b>          |                        |                       |
| BASE RATE   |                   |                         | 285.00                 |                        |                       |
| BLOCK 1 (per 1K)  | 0-160,000         |                         | 6.27                   |                        |                       |
| BLOCK 2   | 160,001-240,000   |                         | 9.41                   |                        |                       |
| BLOCK 3   | 240,001-9,999,999 |                         | 12.54                  |                        |                       |

| <b>FY2023 6.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-residential | In City-commercial | County-Residential | County-<br>Commercial |
|---|-------------------|---------------------|--------------------|--------------------|-----------------------|
|   | <b>GALLONS</b>    |                     | <b>IRCI60</b>      |                    |                       |
| BASE RATE   |                   |                     | 570.00             |                    |                       |
| BLOCK 1 (per 1K)  | 0-160,000         |                     | 6.27               |                    |                       |
| BLOCK 2   | 160,001-240,000   |                     | 9.41               |                    |                       |
| BLOCK 3   | 240,001-9,999,999 |                     | 12.54              |                    |                       |

| <b>FY2023 8.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-residential | In City-commercial | County-<br>Residential | County-<br>Commercial |
|---|-------------------|---------------------|--------------------|------------------------|-----------------------|
|   | <b>GALLONS</b>    |                     | <b>IRCI80</b>      |                        |                       |
| BASE RATE   |                   |                     | 912.00             |                        |                       |
| BLOCK 1 (per 1K)  | 0-160,000         |                     | 6.27               |                        |                       |
| BLOCK 2   | 160,001-240,000   |                     | 9.41               |                        |                       |
| BLOCK 3   | 240,001-9,999,999 |                     | 12.54              |                        |                       |



IRRIG RATES BUDGET FY2023

| <b>FY2023 10.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|--|-------------------|-------------------------|------------------------|------------------------|-----------------------|
|  | GALLONS           |                         | IRCIX                  |                        | IRCOX                 |
| BASE RATE  |                   |                         | 1,311.00               |                        |                       |
| BLOCK 1 (per 1K)   | 0-160,000         |                         | 6.27                   |                        |                       |
| BLOCK 2  | 160,001-240,000   |                         | 9.41                   |                        |                       |
| BLOCK 3  | 240,001-9,999,999 |                         | 12.54                  |                        |                       |

**LAST YEAR**

| <b>FY2022 3/4: Meter</b><br>(10/1/2021 - 09/30/2022)<br>RATE STUDY RESTRUCTURE |                  | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|--|------------------|-------------------------|------------------------|------------------------|-----------------------|
|  | GALLONS          | IRRI75                  | IRCI75                 |                        |                       |
| BASE RATE  |                  | 17.10                   | 17.10                  |                        |                       |
| BLOCK 1 (per 1K)   | 0-16,000         | 6.06                    | 6.06                   |                        |                       |
| BLOCK 2  | 16,001-24,000    | 9.09                    | 9.09                   |                        |                       |
| BLOCK 3  | 24,001-9,999,999 | 12.12                   | 12.12                  |                        |                       |

WATER RATES BUDGET FY2023

| <b>FY2023 3/4: Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                  | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS          | WARI75                  | WACI75                 | WARO75                 | WACO75                |
| BASE RATE   |                  | 17.10                   | 17.10                  | 21.38                  | 21.38                 |
| BLOCK 1 (per 1K)  | 0-8,000          | 3.14                    | 3.14                   | 3.92                   | 3.92                  |
| BLOCK 2   | 8,001-16,000     | 6.27                    | 3.14                   | 7.84                   | 3.92                  |
| BLOCK 3   | 16,001-24,000    | 9.41                    | 3.14                   | 11.76                  | 3.92                  |
| BLOCK 4   | 24,001-9,999,999 | 12.54                   | 3.14                   | 15.68                  | 3.92                  |

Usage  
Only  
3.5%

**BULK** 1.74 3rd year increase

| <b>FY2023 1.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                  | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS          | WARI10                  | WACI10                 | WARO10                 | WACO10                |
| BASE RATE   |                  | 28.50                   | 28.50                  | 35.63                  | 35.63                 |
| BLOCK 1 (per 1K)  | 0-13,000         | 3.14                    | 3.14                   | 3.92                   | 3.92                  |
| BLOCK 2   | 13,001-27,000    | 6.27                    | 3.14                   | 7.84                   | 3.92                  |
| BLOCK 3   | 27,001-40,000    | 9.41                    | 3.14                   | 11.76                  | 3.92                  |
| BLOCK 4   | 40,001-9,999,999 | 12.54                   | 3.14                   | 15.68                  | 3.92                  |

| <b>FY2023 1.5" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                  | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS          | WARI15                  | WACI15                 | WARO15                 | WACO15                |
| BASE RATE   |                  | 57.00                   | 57.00                  | 71.25                  | 71.25                 |
| BLOCK 1 (per 1K)  | 0-27,000         | 3.14                    | 3.14                   | 3.92                   | 3.92                  |
| BLOCK 2   | 27,001-53,000    | 6.27                    | 3.14                   | 7.84                   | 3.92                  |
| BLOCK 3   | 53,001-80,000    | 9.41                    | 3.14                   | 11.76                  | 3.92                  |
| BLOCK 4   | 80,001-9,999,999 | 12.54                   | 3.14                   | 15.68                  | 3.92                  |

| <b>FY2023 2.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|-------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS           | WARI20                  | WACI20                 | WARO20                 | WACO20                |
| BASE RATE   |                   | 91.20                   | 91.20                  | 114.00                 | 114.00                |
| BLOCK 1 (per 1K)  | 0-43,000          | 3.14                    | 3.14                   | 3.92                   | 3.92                  |
| BLOCK 2   | 43,001-85,000     | 6.27                    | 3.14                   | 7.84                   | 3.92                  |
| BLOCK 3   | 85,001-128,000    | 9.41                    | 3.14                   | 11.76                  | 3.92                  |
| BLOCK 4   | 128,001-9,999,999 | 12.54                   | 3.14                   | 15.68                  | 3.92                  |

WATER RATES BUDGET FY2023

| <b>FY2023 3.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|-------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS           |                         | WACI30                 |                        | WACO30                |
| BASE RATE   |                   |                         | 171.00                 | -                      | 213.75                |
| BLOCK 1 (per 1K)  | 0-43,000          |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 2   | 43,001-85,000     |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 3   | 85,001-128,000    |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 4   | 128,001-9,999,999 |                         | 3.14                   | -                      | 3.92                  |

| <b>FY2023 4.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|-------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS           |                         | WACI40                 |                        | WACO40                |
| BASE RATE   |                   |                         | 285.00                 | -                      | 356.25                |
| BLOCK 1 (per 1K)  | 0-43,000          |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 2   | 43,001-85,000     |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 3   | 85,001-128,000    |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 4   | 128,001-9,999,999 |                         | 3.14                   | -                      | 3.92                  |

| <b>FY2023 6.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|-------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS           |                         | WACI60                 |                        | WACO60                |
| BASE RATE   |                   |                         | 570.00                 | -                      | 712.50                |
| BLOCK 1 (per 1K)  | 0-43,000          |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 2   | 43,001-85,000     |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 3   | 85,001-128,000    |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 4   | 128,001-9,999,999 |                         | 3.14                   | -                      | 3.92                  |

0.0%

| <b>FY2023 8.0" Meter</b><br>(11/10/2022 - 09/30/2023)<br>RATE STUDY RESTRUCTURE |                   | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|-------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | GALLONS           |                         | WACI80                 |                        | WACO80                |
| BASE RATE   |                   |                         | 912.00                 | -                      | 1,140.00              |
| BLOCK 1 (per 1K)  | 0-43,000          |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 2   | 43,001-85,000     |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 3   | 85,001-128,000    |                         | 3.14                   | -                      | 3.92                  |
| BLOCK 4   | 128,001-9,999,999 |                         | 3.14                   | -                      | 3.92                  |

WATER RATES BUDGET FY2023

| <b>FY2023 10.0" Meter<br/>(11/10/2022 - 09/30/2023)<br/>RATE STUDY RESTRUCTURE</b> |                          | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|--|--------------------------|-------------------------|------------------------|------------------------|-----------------------|
|  | <b>GALLONS</b>           |                         | <b>WACIX</b>           |                        | <b>WACOX</b>          |
| <b>BASE RATE</b>   |                          |                         | 1,311.00               | -                      | 1,638.75              |
| <b>BLOCK 1 (per 1K)</b>  | <b>0-43,000</b>          |                         | 3.14                   | -                      | 3.92                  |
| <b>BLOCK 2</b>   | <b>43,001-85,000</b>     |                         | 3.14                   | -                      | 3.92                  |
| <b>BLOCK 3</b>   | <b>85,001-128,000</b>    |                         | 3.14                   | -                      | 3.92                  |
| <b>BLOCK 4</b>   | <b>128,001-9,999,999</b> |                         | 3.14                   | -                      | 3.92                  |

**LAST YEAR**

| <b>FY2022 3/4: Meter<br/>(10/1/2021- 09/30/2022)<br/>RATE STUDY RESTRUCTURE</b> |                         | In City-<br>residential | In City-<br>commercial | County-<br>Residential | County-<br>Commercial |
|---|-------------------------|-------------------------|------------------------|------------------------|-----------------------|
|   | <b>GALLONS</b>          | <b>WARI75</b>           | <b>WACI75</b>          | <b>WARO75</b>          | <b>WACO75</b>         |
| <b>BASE RATE</b>  |                         | 17.10                   | 17.10                  | 21.38                  | 21.38                 |
| <b>BLOCK 1 (per 1K)</b>   | <b>0-8,000</b>          | 3.03                    | 3.03                   | 3.79                   | 3.79                  |
| <b>BLOCK 2</b>  | <b>8,001-16,000</b>     | 6.06                    | 3.03                   | 7.58                   | 3.79                  |
| <b>BLOCK 3</b>  | <b>16,001-24,000</b>    | 9.09                    | 3.03                   | 11.36                  | 3.79                  |
| <b>BLOCK 4</b>  | <b>24,001-9,999,999</b> | 12.12                   | 3.03                   | 15.15                  | 3.79                  |

Usage  
Only

|             |      |
|-------------|------|
| <b>BULK</b> | 1.68 |
|-------------|------|



**Transmission of material in this release is embargoed until  
 8:30 a.m. (ET) February 10, 2022**

USDL-22-0191

Technical information: (202) 691-7000 • [cpi\\_info@bls.gov](mailto:cpi_info@bls.gov) • [www.bls.gov/cpi](http://www.bls.gov/cpi)  
 Media Contact: (202) 691-5902 • [PressOffice@bls.gov](mailto:PressOffice@bls.gov)

**CONSUMER PRICE INDEX – JANUARY 2022**

**(NOTE: The PDF version of the CPI news release was re-issued February 10, 2022. Data errors were found in tables in the PDF version of the news release. Data found elsewhere including the text version of the news release are correct as originally published.)**

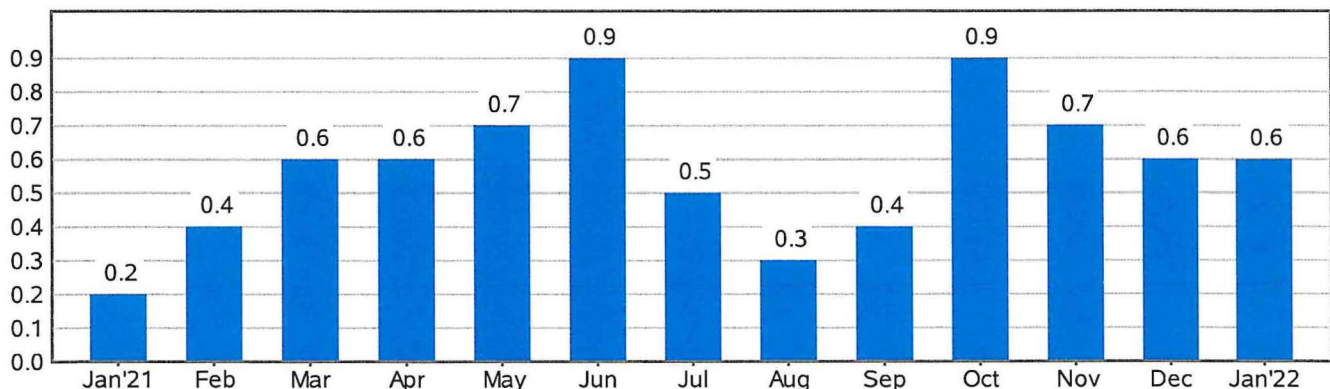
The Consumer Price Index for All Urban Consumers (CPI-U) increased 0.6 percent in January on a seasonally adjusted basis, the U.S. Bureau of Labor Statistics reported today. Over the last 12 months, the all items index increased 7.5 percent before seasonal adjustment.

Increases in the indexes for food, electricity, and shelter were the largest contributors to the seasonally adjusted all items increase. The food index rose 0.9 percent in January following a 0.5-percent increase in December. The energy index also increased 0.9 percent over the month, with an increase in the electricity index being partially offset by declines in the gasoline index and the natural gas index.

The index for all items less food and energy rose 0.6 percent in January, the same increase as in December. This was the seventh time in the last 10 months it has increased at least 0.5 percent. Along with the index for shelter, the indexes for household furnishings and operations, used cars and trucks, medical care, and apparel were among many indexes that increased over the month.

The all items index rose 7.5 percent for the 12 months ending January, the largest 12-month increase since the period ending February 1982. The all items less food and energy index rose 6.0 percent, the largest 12-month change since the period ending August 1982. The energy index rose 27.0 percent over the last year, and the food index increased 7.0 percent.

**Chart 1. One-month percent change in CPI for All Urban Consumers (CPI-U), seasonally adjusted, Jan. 2021 - Jan. 2022**  
 Percent change



# The Villages<sup>®</sup> DAILY SUN

Published Daily  
Lady Lake, Florida  
State of Florida  
County Of Lake

Before the undersigned authority personally appeared **Joseph Szabo**, who on oath says that she is Legal Ad Coordinator of the DAILY SUN, a daily newspaper published at Lady Lake in Lake County, Florida with circulation in Lake, Sumter and Marion Counties; that the attached copy of advertisement, being a Legal #1091687 in the matter of

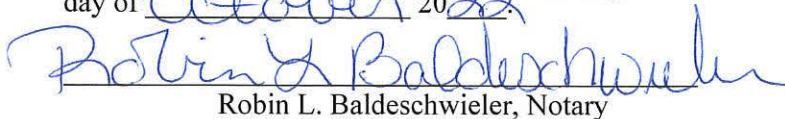
**NOTICE OF PUBLIC HEARINGS**  
was published in said newspaper in the issues of

**OCTOBER 23, 2022**

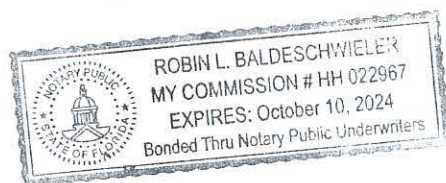
Affiant further says that the said Daily Sun is a newspaper published at Lady Lake in said Lake County, Florida, and that the said newspaper has heretofore been continuously published in said Lake County, Florida each week and has been entered as second class mail matter at the post office in Lady Lake, in said Lake County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisements; 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.

  
\_\_\_\_\_  
(Signature Of Affiant)

Sworn to and subscribed before me this 24  
day of October 2022

  
\_\_\_\_\_  
Robin L. Baldeschwieler, Notary

Personally Known   X   or  
Production Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



## NOTICE OF PUBLIC HEARINGS

ORDINANCE 2022-020

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, FLORIDA AMENDING SECTION 50.30 IN CHAPTER 50 OF THE FRUITLAND PARK CODE OF ORDINANCES TO ADJUST THE WATER UTILITY RATES BASED ON JANUARY 2022 CONSUMER PRICE INDEX; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.  
(The first reading was held on October 13, 2022.)

This ordinance will be presented for public hearing by the City of Fruitland Park City Commission on Thursday, November 10, 2022 at 6:00 p.m. in the commission chambers of city hall, 506 West Berckman Street, Fruitland Park, Florida 34731. This meeting is open to the public and hearings may be continued as determined by the commission from time to time to a time certain. The proposed ordinance may be reviewed and inspected by the public during normal working hours at city hall. For further information, please call (352) 360-6727. Interested parties may appear at the meetings and will be heard with respect to the proposed ordinance.

If a person decides to appeal any decision made by any board, agency or commission with respect to any matter considered at such meeting or hearing, will need a record of the proceedings. For such purposes, any such person may need to ensure that a verbatim record of the proceedings is made, which includes the

testimony and evidence upon which the appeal is based. The city does not provide verbatim records. (Florida Statutes, 286.0105).

Anyone requiring special accommodations at this meeting because of disability or physical impairment and need assistance to participate in any of these proceedings should contact Esther Coulson, City Clerk at (352) 360-6790 at least forty-eight (48) hours before the date of the scheduled hearings.  
**#1091687 October 23, 2022**

**CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 9e**

**ITEM TITLE:** Second Reading and Public Hearing - Ordinance  
2022-021 Increase Water and Wastewater Rate

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Monday, September 26, 2022

**SUBMITTED BY:** City Treasurer

**BRIEF NARRATIVE:** Ordinance 2022-021 – First reading amending Chapter 99.60, Wastewater Rates. Increase wastewater usage rates by 7.5%, the CPI-U January 2022. The volumetric rate (cost of 1,000 gallons) will be increased 7.5% per 1,000 gallons. This increases residential usage \$.39 per 1000 gallons. (The first reading was held on October 13, 2022.)

**FUNDS REQUIRED:**

**ATTACHMENTS:** Ordinance, rate tables, letter, prior notice on utility bills, and affidavit.

**RECOMMENDATION:** Approval.

**ACTION:** Enact Ordinance 2022-021 to become effective immediately as provided by law.

**ORDINANCE 2022-021**

**AN ORDINANCE OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING SECTION 99.60 IN CHAPTER 50 OF THE FRUITLAND PARK CODE OF ORDINANCES TO ADJUST THE WASTEWATER UTILITY RATES BASED ON JANUARY 2022 CONSUMER PRICE INDEX; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statute Chapter 180 provides local municipalities with the authority to establish and operate water utility systems; and

**WHEREAS**, Florida Statute Chapter 180.13 provides the City Commission with the authority to establish just and equitable rates or charges to be paid to the municipality for the use of the utility by each person; and

**WHEREAS**, the City Commission has determined that it is necessary to amend the ordinance governing the wastewater systems for the City of Fruitland Park to meet the cost of providing wastewater service to the customers of the wastewater system; and

**WHEREAS**, the City Commission enacted Ordinance 2005-031 which allowed for adjustment of water and wastewater rates in accordance with changes to the cost of living; and

**WHEREAS**, the City Commission of the City of Fruitland Park has accordingly determined that it is necessary to uniformly increase wastewater usage rate by 7.5%; and

**WHEREAS**, the City of Fruitland Park has provided notice of the proposed increase to each customer through the utility's billing process as is required by 180.136, Florida Statutes; and

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA**

**Section 1.** In Chapter 99, Section 99.60(B) relating to Wastewater Rates shall be amended to read as follows:



**Single Family Residential Wastewater Rates - Inside City**

|                                   |            |
|-----------------------------------|------------|
| <b>Base Rate</b>                  | 11/10/2022 |
| ¾" Meter or Smaller               | \$25.00    |
| 1" Meter                          | 25.00      |
| 1½" Meter                         | 25.00      |
| 2" Meter                          | 25.00      |
| Volumetric Rate [4]               |            |
| All Consumption Per 1,000 Gallons | \$5.65     |
| Up to 10,000 Gallons              | 0.00       |
| All Consumption Per 1,000 Gallons | \$0.00     |
| Above 10,000 Gallons              | 0.00       |

**Multi-Family Residential Wastewater Rates - Inside City**

|                                   |          |
|-----------------------------------|----------|
| <b>Base Rate</b>                  |          |
| ¾" Meter or Smaller               | \$25.00  |
| 1" Meter                          | 41.67    |
| 1½" Meter                         | 83.33    |
| 2" Meter                          | 133.33   |
| 3" Meter                          | 250.00   |
| 4" Meter                          | 416.67   |
| 6" Meter                          | 833.33   |
| 8" Meter                          | 1,133.33 |
| 10" Meter                         | 1,916.67 |
| Volumetric Rate                   |          |
| All Consumption Per 1,000 Gallons | \$5.65   |

**Single Family Residential Wastewater Rates – Outside City**

|                                   |         |
|-----------------------------------|---------|
| <b>Base Rate</b>                  |         |
| ¾" Meter or Smaller               | \$31.25 |
| 1" Meter                          | 31.25   |
| 1½" Meter                         | 31.25   |
| 2" Meter                          | 31.25   |
| Volumetric Rate [4]               |         |
| All Consumption Per 1,000 Gallons | \$7.07  |
| Up to 10,000 Gallons              | 0.00    |
| All Consumption Per 1,000 Gallons | \$0.00  |
| Above 10,000 Gallons              | 0.00    |

**Multi-Family and Commercial Wastewater Rates – Outside City**

|                     |         |
|---------------------|---------|
| <b>Base Rate</b>    |         |
| ¾" Meter or Smaller | \$31.25 |

|           |          |
|-----------|----------|
| 1" Meter  | 52.08    |
| 1½" Meter | 104.17   |
| 2" Meter  | 166.67   |
| 3" Meter  | 312.50   |
| 4" Meter  | 520.83   |
| 6" Meter  | 1,041.67 |
| 8" Meter  | 1,666.67 |
| 10" Meter | 2,395.83 |

Volumetric Rate  
All Consumption Per 1,000 Gallons            \$7.07

(a) Sewer pump, electric connection fee:    \$400.00

**Section 2.** All Ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 3.** The provisions of this ordinance are intended to be incorporated into the Code of Ordinances of the City of Fruitland Park, Florida and the sections of this ordinance may be renumbered, re-lettered, and the word "ordinance" may be changed to "section", "article" or such other word or phrase in order to accomplish such intention.

**Section 4.** If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this ordinance.

**Section 5.** This ordinance shall be effective immediately upon adoption; however, the wastewater rate adjustments shall be implemented November 10, 2022.

PASSED AND ORDAINED this \_\_\_\_\_ 2022 by the City Commission of the City of Fruitland Park, Florida.

\_\_\_\_\_  
Christopher Cheshire, Mayor

Attest:

\_\_\_\_\_  
Esther Coulson, City Clerk, MMC

|                      |       |        |       |       |       |              |       |          |
|----------------------|-------|--------|-------|-------|-------|--------------|-------|----------|
| Mayor Cheshire       | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Vice Mayor Gunter    | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Bell    | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner DeGrave | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |

Commissioner Mobilian \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)

First Reading            October 13, 2022

Second Reading        November 10, 2022

Approved as to form and legality:

CITY OF FRUITLAND PARK  
Proposed WasteWater Rate Increase FY2023

SEWER RATES FY2023

SEWER

125% OF  
CITY

**Eff FY2023 (10/1/2022-9/30/2023)**

| RESIDENTIAL CITY BASE RATE |        |       | RESIDENTIAL COUNTY BASE RATE |        |       | MIN<br>GAL | MAX<br>GAL | CITY<br>RATE | COUNTY<br>RATE |
|----------------------------|--------|-------|------------------------------|--------|-------|------------|------------|--------------|----------------|
| 3/4 Meter                  | WWRI75 | 25.00 | 3/4 Meter                    | WWRO75 | 31.25 | 0          | 10,000     | 5.65         | 7.07           |
| 1 Meter                    | WWRI10 | 25.00 | 1 Meter                      | WWRO10 | 31.25 | 0          | 10,000     | 5.65         | 7.07           |
| 1.5 Meter                  | WWRI15 | 25.00 | 1.5 Meter                    | WWRO15 | 31.25 | 0          | 10,000     | 5.65         | 7.07           |
| 2.0 Meter                  | WWRI20 | 25.00 | 2.0 Meter                    | WWRO20 | 31.25 | 0          | 10,000     | 5.65         | 7.07           |

WASTERWATER

**Non Single-Family (Multifamily & Commercial): Inside City**

| Meter Size | Monthly<br>Base<br>Charge | Usage gal/Mth   | Usage<br>Rate per<br>1000<br>gallons | WW Code |
|------------|---------------------------|-----------------|--------------------------------------|---------|
| 3/4"       | 25.00                     | All Consumption | 5.65                                 | WWCI75  |
| 1.0"       | 41.67                     | All Consumption | 5.65                                 | WWCI10  |
| 1.5"       | 83.33                     | All Consumption | 5.65                                 | WWCI15  |
| 2.0"       | 133.33                    | All Consumption | 5.65                                 | WWCI20  |
| 3.0"       | 250.00                    | All Consumption | 5.65                                 | WWCI30  |
| 4.0"       | 416.67                    | All Consumption | 5.65                                 | WWCI40  |
| 6.0"       | 833.33                    | All Consumption | 5.65                                 | WWCI60  |
| 8.0"       | 1,333.33                  | All Consumption | 5.65                                 | WWCI80  |
| 10.0"      | 1,916.67                  | All Consumption | 5.65                                 | WWCI1*  |

**Non Single-Family (Multifamily & Commercial): Outside City**

| Meter Size | Monthly<br>Base<br>Charge | Usage gal/Month | Usage<br>Rate per<br>1000<br>gallons | Munis A/R<br>Code |
|------------|---------------------------|-----------------|--------------------------------------|-------------------|
| 3/4"       | 31.25                     | All Consumption | 7.07                                 | WWCO75            |
| 1.0"       | 52.08                     | All Consumption | 7.07                                 | WWCO10            |
| 1.5"       | 104.17                    | All Consumption | 7.07                                 | WWCO15            |
| 2.0"       | 166.65                    | All Consumption | 7.07                                 | WWCO20            |
| 3.0"       | 312.50                    | All Consumption | 7.07                                 | WWCO30            |
| 4.0"       | 520.83                    | All Consumption | 7.07                                 | WWCO40            |
| 6.0"       | 1,041.67                  | All Consumption | 7.07                                 | WWCO60            |
| 8.0"       | 1,666.67                  | All Consumption | 7.07                                 | WWCO80            |
| 10.0"      | 2,395.83                  | All Consumption | 7.07                                 | WWCO1*            |



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USDL-22-0191

Technical information: (202) 691-7000 • [cpi\\_info@bls.gov](mailto:cpi_info@bls.gov) • [www.bls.gov/cpi](http://www.bls.gov/cpi)  
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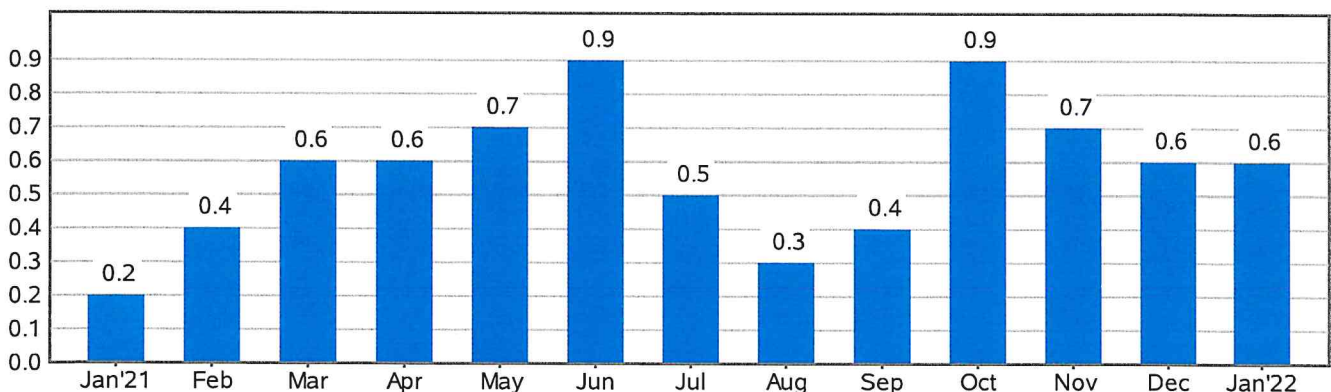
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The all items index rose 7.5 percent for the 12 months ending January, the largest 12-month increase since the period ending February 1982. The all items less food and energy index rose 6.0 percent, the largest 12-month change since the period ending August 1982. The energy index rose 27.0 percent over the last year, and the food index increased 7.0 percent.

**Chart 1. One-month percent change in CPI for All Urban Consumers (CPI-U), seasonally adjusted, Jan. 2021 - Jan. 2022**  
 Percent change



MAKE CHECKS PAYABLE TO:

RETURN THIS STUB WITH PAYMENT TO  
CITY OF FRUITLAND PARK

1111



CITY OF FRUITLAND PARK UTILITY DEPT.  
506 W. BERCKMAN STREET  
FRUITLAND PARK, FL 34731  
(352) 360-6727

PLEASE WRITE THE BILL NUMBER OR ACCOUNT NUMBER ON YOUR CHECK

|   |                                     |                              |                  |
|---|-------------------------------------|------------------------------|------------------|
| METER LOCATION<br><b>901 DEER GLEN CT</b> | APT                                 | FROM<br>9/12/2022            | TO<br>10/12/2022 |
| BILL DATE<br><b>10/26/2022</b>            | ACCOUNT NUMBER<br><b>1060173200</b> | BILL NUMBER<br><b>495650</b> |                  |
| PAY BEFORE DUE DATE<br><b>66.07</b>       | PAY AFTER DUE DATE                  | PAYMENT AMOUNT               |                  |

E-Z PAY BANKDRAFT OPTION (SEE REVERSE SIDE)

UTILITY PAYMENT DROP BOX IN PARKING LOT OF CITY HALL  
**CASHIER HOURS 8:00 a.m. - 4:30 p.m.**

ADDRESSEE:

FPK1026A 1809 1 AV 0.455  
7000001809 00.0005.0225 1809/1

REMIT TO:

**DO NOT SEND PAYMENT  
E-Z PAY BANK DRAFT**

Please check box if above address is incorrect, and indicate change(s)

PLEASE DETACH AND RETURN TOP PORTION WITH YOUR PAYMENT

**FINAL VOTE FOR WATER & SEWER RATE INCREASE 11-10-22 CITY HALL, 6PM.**

FRUITLAND PARK LIBRARY PRESENTS COOKING WITH WINE.  
TUESDAY NOVEMBER 8, 2022 5PM-6PM CHEF WARREN CATERSON'S  
KEEP GRASS CLIPPINGS AND LEAVES OUT OF THE STORM DRAIN.  
VISIT [WWW.FRUITLANDPARK.ORG](http://WWW.FRUITLANDPARK.ORG) FOR ONLINE UTILITY BILL PAYMENT  
PAYMENT IS ALWAYS DUE BY THE 10TH / SHUT OFF IS ALWAYS THE 21ST

| NAME: JEANNINE RACINE |           |            |            |                  |
|-----------------------|-----------|------------|------------|------------------|
| ACCOUNT NO.           | FROM      | TO         | BILL DATE  | METER LOCATION   |
| 1060173200            | 9/12/2022 | 10/12/2022 | 10/26/2022 | 901 DEER GLEN CT |
| SERVICE CHARGE        | PREVIOUS  | PRESENT    | USAGE      | CURR CHG         |

|        |         |         |      |       |
|--------|---------|---------|------|-------|
| WARI75 | 1984586 | 1989182 | 4596 | 31.03 |
| STMWTR |         |         |      | 2.00  |
| GARB   |         |         |      | 29.94 |
| UTIL T |         |         |      | 3.10  |

A 10% PENALTY APPLIES TO THE UNPAID BALANCE AFTER THE 10TH OF THE MONTH.

WATER SERVICE WILL BE SHUT OFF ON THE 21ST IF THE BILL IS NOT PAID BY 5PM ON THE 20TH.

| PAST DUE    | THIS BILLING   | TOTAL DUE | ACCOUNT             | DUE        |
|-------------|----------------|-----------|---------------------|------------|
| 0.00        | 66.07          | 66.07     | 1060173200          | 11/10/2022 |
| BILL NUMBER | PENALTY        |           | PAY BEFORE DUE DATE | 66.07      |
| 495650      | PAYMENT AMOUNT |           | PAY AFTER DUE DATE  |            |



CFP-1178-4

CITY OF FRUITLAND PARK UTILITY  
DEPT.

506 W. BERCKMAN STREET  
FRUITLAND PARK, FL 34731  
(352) 360-6727

After-Hours Utility Emergency - Please contact the Lake  
County Sheriff's Office at (352) 343-2101  
PLEASE RETAIN THIS PORTION FOR YOUR RECORDS.  
**CASHIER HOURS 8:00 a.m. - 4:30 p.m.**

BILL IS DUE AND PAYABLE UPON RECEIPT. A 10%  
PENALTY IS APPLIED IF PAID AFTER 10TH OF MONTH.

PAY BEFORE  
DUE DATE

66.07

PAY AFTER  
DUE DATE

Empty box for payment amount

Municipal Complex, 409 Fennell Boulevard, Lady Lake, Florida 32159 USA

---



352-751-1525 FAX: 352-751-1573 [www.ladylake.org](http://www.ladylake.org)

September 12, 2022

City of Fruitland Park  
506 W Berckman St  
Fruitland Park, FL 34731

Re: Sewer Rate Increase  
Town of Lady Lake

Dear Jeannine,

The Town of Lady Lake due to the rate study for water, sewer and reuse fees and passing Resolution 2020-103 amending rates, fees, and service charges for Utility Services can raise rates by CPI or 5%, whichever is greater.

We need to notify you that due to the agreement between the Town of Lady Lake and the City of Fruitland Park concerning sewer interconnect, the sewer fees are increasing by 7.5% from \$3.92 per thousand gallons to \$4.21 per thousand gallons effective October 1, 2022.

Other sewer increases include:

Base Facilities Charge (\$ per ERU) to \$16.00  
Billing Charge (\$ per Bill) to \$3.78

If you have any questions, please contact C.T. Eagle at 352-751-1527 or [cteagle@ladylake.org](mailto:cteagle@ladylake.org) and my information is stated below.

Thank you

*Pamela Winegardner*

Pamela Winegardner, CGFO  
Finance Director  
352-751-1538  
[pwinegardner@ladylake.org](mailto:pwinegardner@ladylake.org)

# The Villages<sup>®</sup> DAILY SUN

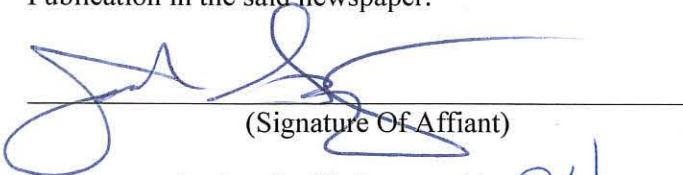
Published Daily  
Lady Lake, Florida  
State of Florida  
County Of Lake

Before the undersigned authority personally appeared **Joseph Szabo**, who on oath says that she is Legal Ad Coordinator of the DAILY SUN, a daily newspaper published at Lady Lake in Lake County, Florida with circulation in Lake, Sumter and Marion Counties; that the attached copy of advertisement, being a Legal #1091688 in the matter of

**NOTICE OF PUBLIC HEARINGS**  
was published in said newspaper in the issues of

**OCTOBER 23, 2022**

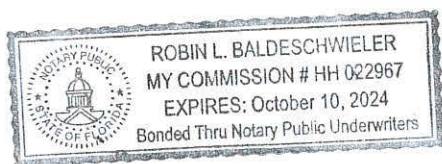
Affiant further says that the said Daily Sun is a newspaper published at Lady Lake in said Lake County, Florida, and that the said newspaper has heretofore been continuously published in said Lake County, Florida each week and has been entered as second class mail matter at the post office in Lady Lake, in said Lake County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisements; 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.

  
(Signature Of Affiant)

Sworn to and subscribed before me this 24  
day of October 2022

  
Robin L. Baldeschwieler, Notary

Personally Known X or \_\_\_\_\_  
Production Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



## NOTICE OF PUBLIC HEARINGS

ORDINANCE 2022-021

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING SECTION 99.60 IN CHAPTER 50 OF THE FRUITLAND PARK CODE OF ORDINANCES TO ADJUST THE WASTEWATER UTILITY RATES BASED ON JANUARY 2022 CONSUMER PRICE INDEX; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.  
(The first reading was held on October 13, 2022.)

This ordinance will be presented for public hearing by the City of Fruitland Park City Commission on Thursday, November 10, 2022 at 6:00 p.m. in the commission chambers of city hall, 506 West Berckman Street, Fruitland Park, Florida 34731. This meeting is open to the public and hearings may be continued as determined by the

commission from time to time to a time certain. The proposed ordinance may be reviewed and inspected by the public during normal working hours at city hall. For further information, please call (352) 360-6727. Interested parties may appear at the meetings and will be heard with respect to the proposed ordinance.

If a person decides to appeal any decision made by any board, agency or commission with respect to any matter considered at such meeting or hearing, will need a record of the proceedings. For such purposes, any such person may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is based. The city does not provide verbatim records. (Florida Statutes, 286.0105).

Anyone requiring special accommodations at this meeting because of disability or physical impairment and need assistance to participate in any of these proceedings should contact Esther Coulson, City Clerk at (352) 360-6790 at least forty-eight (48) hours before the date of the scheduled hearings.  
**#1091688 October 23, 2022**



**CITY OF FRUITLAND PARK**  
**AGENDA ITEM SUMMARY SHEET**  
Item Number: 9 f-j

|                         |   |
|-------------------------|---|
| <b>ITEM TITLE:</b>      | <b>Quasi-Judicial Public Hearings</b>                     |
| <b>MEETING DATE:</b>    | Thursday, November 10, 2022                               |
| <b>DATE SUBMITTED:</b>  | Monday, October 31, 2022                                  |
| <b>SUBMITTED BY:</b>    | City Attorney/City Manager/Community Development Director |
| <b>BRIEF NARRATIVE:</b> | <b>Quasi-Judicial Public Hearing</b>                      |
| <b>FUNDS REQUIRED:</b>  | None  |
| <b>ATTACHMENTS:</b>     | Quasi-Judicial Public Hearing Establishment               |
| <b>RECOMMENDATION:</b>  | N/A   |
| <b>ACTION:</b>          | City Commission Consideration                             |

**RESOLUTION 2004-014**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA; RELATING TO QUASI-JUDICIAL HEARINGS; ESTABLISHING PROCEDURES FOR THE DISCLOSURE OF EX PARTE COMMUNICATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statute 286.0115 allows municipalities to remove the presumption of prejudice attached to ex parte communications with local public officials in quasi-judicial proceedings through the adoption of a resolution or ordinance establishing a process for the disclosure of such communications; and

**WHEREAS**, the City Commission of the City of Fruitland Park desires to implement the provisions of F.S. 286.0115 with respect to quasi-judicial proceedings which occur before the City Commission as well as city boards and committees.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK:**

**Section 1.** The following procedures shall apply with regards to any quasi-judicial matters before the City Commission or any board or committee of the City:

**Procedures for quasi-judicial hearings;  
Disclosure of ex parte communications.**

(a) *Intent.* Pursuant to Section 286.0115(1), Florida Statutes, it is the intent of the city commission that this section is intended to remove the presumption of prejudice from *ex parte* communications with city officials and to permit, among other things, site visits, the receipt of expert opinion, and the review of mail and other correspondence relating to quasi-judicial proceedings by said city officials. .

(b) *Definitions.* As used in this section, the following terms shall be defined as follows:

- (1) "City official" means and refers to any elected or appointed public official holding a municipal position or office who recommends or takes quasi-judicial action as a member of a city board, commission, or committee, including, but not limited to, a member of the city commission, the code enforcement board, the planning and zoning board, or the local planning agency.
- (2) "*Ex parte* communication" means a communication involving a city official and a member of the public, regarding a pending quasi-judicial action, such that the city official may be exposed to only one perspective

or part of the evidence with regard to a quasi-judicial action pending before the commission or board on which the city official serves. *Ex parte* communications occur at other than a public meeting of the board on which the city official serves at which the quasi-judicial action discussed has been publicly noticed.

- (3) "Member of the public" refers to any person interested in a quasi-judicial action, including, but not limited to, an applicant, an officer or member of a homeowner's association, an officer or member of an environmental, homebuilding/development, or concerned citizen's organization, an official or employee of a governmental entity other than the City, a developer, a property owner, or an interested citizen, or a representative of or attorney for any of the foregoing.
- (4) "Quasi-judicial" refers to a land use, land development, zoning, or building related permit, application or appeal, as set forth below, in which city officials give notice and an opportunity to be heard to certain substantially affected persons, investigate facts, ascertain the existence of facts, hold hearings, weigh evidence, draw conclusions from the facts, and apply the law to the facts, as the basis for their decision.
- (5) "Site visit" means an inspection of real property subject to an application for any quasi-judicial action prior to a public hearing on the application conducted by a city official. The mere act of driving by a site in the daily course of driving to a particular location, such as work or a particular store, which act is not undertaken for the purpose of inspecting a particular parcel of real property is not a site visit for purposes of this section.

(c) *Ex parte communications between city officials and members of the public.*

- (1) A member of the public not otherwise prohibited by statute, charter provision or ordinance may have an *ex parte* communication with any city official regarding any quasi-judicial matter on which action may be taken by the commission or board on which the city official serves; provided, that the city official adheres to the disclosure requirements set forth in sub-section (c)(3) below.
- (2) Except as otherwise provided by statute, charter provision, or ordinance, any city official may have an *ex parte* communication with any expert witness or consultant regarding any quasi-judicial matter on which action may be taken by the commission or board on which the city official serves; provided, that the city official adheres to the disclosure requirements set forth in sub-section (c)(3) below. Nothing here,

however, shall restrict a city official access to city staff or expert witness or consultant retained by the City.

(3) Disclosure.

- (A) All city officials shall disclose the occurrence of all *ex parte* communications or discussions with a member of the public or an expert witness or consultant involving said city official which relate to the quasi-judicial action pending before the commission or board on which the city official serves.
- (B) Disclosure shall occur by no later than the final public hearing, or if no formal public hearing is held, then any hearing at which the final decision regarding the quasi-judicial matter is made. The city official shall disclose the *ex parte* communication verbally or by memorandum. Any such memorandum disclosing the occurrence of the *ex parte* communication shall be placed in the official file regarding the pending quasi-judicial matter which file shall be maintained in the City Clerk's records.
- (C) At the time of disclosure, the city official shall identify the person, group, or entity with whom the *ex parte* communication took place, the substance of the *ex parte* communication, and any matters discussed which are considered by the city official to be material to said city official's decision in the pending quasi-judicial matter.
- (d) *Oral or written communications between city staff and city officials.* City officials may discuss quasi-judicial matters pending before the commission or board on which said city official serves with city staff without the requirement to disclose pursuant to sub-section (c)(3) above.
- (e) *Site visits by city officials.* Any city official may conduct a site visit of any property related to a quasi-judicial matter pending before the commission or board on which the city official serves; provided, that the city official adheres to the disclosure requirements set forth in sub-section (c)(3) above. Any disclosure of a site visit pursuant to sub-section (c)(3) shall disclose the existence of the site visit, and any information obtained by virtue of the site visit considered by the city official to be material to said official's decision regarding the pending quasi-judicial matter.
- (f) *Review of mail, correspondence, and written communications by city officials.* Any city official may review mail, correspondence, or written communications, related to a quasi-judicial matter pending before the commission or board on which the city official serves. Upon review of the mail, correspondence, or

written communication, the document shall be placed in the official file regarding the pending quasi-judicial matter and maintained in the city clerk's records.

- (g) *City clerk's file.* All correspondence, mail, or written communications reviewed by city officials prior to the final hearing on a pending quasi-judicial matter shall be placed in the official file regarding said matter and maintained by the city clerk. Said correspondence, mail, or written communications reviewed by city officials prior to the final hearing on a pending quasi-judicial matter, or any disclosure memoranda as described in sub-section (c)(3)(B), shall be available for public inspection. By no later than the final public hearing, or if no formal public hearing is held, then at any hearing at which the final decision regarding the quasi-judicial matter is made, the city clerk shall make said correspondence, mail, written communications, or other matters, and any disclosure memoranda placed in the official file, a part of the record. All of the foregoing documents shall be received by the commission or board as evidence, with the exception of disclosure memoranda, subject to any objections interposed by participants at the hearing.
- (h) *Opportunity to comment upon substance of disclosure.* At such time that a disclosure regarding an *ex parte* communication, receipt of an expert opinion, site visit, or review of mail, correspondence, or other written communication is made a part of the record at a hearing, persons who may have opinions or evidence contrary to those expressed in the *ex parte* communication, expert opinion, or mail, correspondence, or other written communication, or noted during the site visit, shall be given a reasonable opportunity to refute or respond and provide contrasting information, evidence, or views.

**Section 2.** If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this ordinance.

**Section 3.** This resolution shall be effective upon passage.

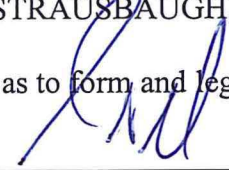
**PASSED AND RESOLVED** this 24<sup>th</sup> day of June, 2004, by the City Commission of the City of Fruitland Park, Florida.

  
\_\_\_\_\_  
JOHN L. GUNTER, JR., VICE MAYOR

ATTEST:

  
\_\_\_\_\_  
MARGE STRAUSBAUGH, CITY CLERK

Approved as to form and legality:

  
\_\_\_\_\_  
Scott A. Gerken, City Attorney



Select Year: 2020 

## The 2020 Florida Statutes

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[Title XIX](#)[Chapter 286](#)[View Entire Chapter](#)[PUBLIC BUSINESS](#)[PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS](#)**286.0115 Access to local public officials; quasi-judicial proceedings on local government land use matters.—**

(1)(a) A county or municipality may adopt an ordinance or resolution removing the presumption of prejudice from ex parte communications with local public officials by establishing a process to disclose ex parte communications with such officials pursuant to this subsection or by adopting an alternative process for such disclosure. However, this subsection does not require a county or municipality to adopt any ordinance or resolution establishing a disclosure process.

(b) As used in this subsection, the term “local public official” means any elected or appointed public official holding a county or municipal office who recommends or takes quasi-judicial action as a member of a board or commission. The term does not include a member of the board or commission of any state agency or authority.

(c) Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the local public official is a member. If adopted by county or municipal ordinance or resolution, adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with local public officials.

1. The substance of any ex parte communication with a local public official which relates to quasi-judicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

2. A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a local public official shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

3. Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

4. Disclosure made pursuant to subparagraphs 1., 2., and 3. must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication. This subsection does not subject local public officials to part III of chapter 112 for not complying with this paragraph.

(2)(a) Notwithstanding the provisions of subsection (1), a county or municipality may adopt an ordinance or resolution establishing the procedures and provisions of this subsection for quasi-judicial proceedings on local government land use matters. The ordinance or resolution shall provide procedures and provisions identical to this subsection. However, this subsection does not require a county or municipality to adopt such an ordinance or resolution.

(b) In a quasi-judicial proceeding on local government land use matters, a person who appears before the decisionmaking body who is not a party or party-intervenor shall be allowed to testify before the decisionmaking body, subject to control by the decisionmaking body, and may be requested to respond to questions from the

decisionmaking body, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The decisionmaking body shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate.

(c) In a quasi-judicial proceeding on local government land use matters, a person may not be precluded from communicating directly with a member of the decisionmaking body by application of ex parte communication prohibitions. Disclosure of such communications by a member of the decisionmaking body is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the decisionmaking body. All decisions of the decisionmaking body in a quasi-judicial proceeding on local government land use matters must be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

(3) This section does not restrict the authority of any board or commission to establish rules or procedures governing public hearings or contacts with local public officials.

**History.**—s. 1, ch. 95-352; s. 31, ch. 96-324.

**CITY OF FRUITLAND PARK**  
**AGENDA ITEM SUMMARY SHEET**  
**Item Number: 9f**

**ITEM TITLE:** **First Reading and Public Hearing - Ordinance 2022-023 SSCPA –14.98± Acres – North of CR 466A and East of Oliver Lane - Petitioner: T. D. Burke**

**MEETING DATE:** November 10, 2022

**DATE SUBMITTED:** October 24, 2022

**SUBMITTED BY:** City Attorney/City Manager/Community Development Director

**BRIEF NARRATIVE:** **Ordinance 2022-023 Small-Scale Comprehensive Plan Amendment** to amend the future land use of approximately 14.98± acres located north of CR 466A, east of Oliver Lane and west of Micro Racetrack Road. Petitioner: T.D. Burke. The owner, via the applicant, Jose Kreutz of Luxury Leased Homes USA, LLC, is requesting a small-scale comprehensive plan amendment (SSCPA) of 14.98± acres; amending the future land use from Lake County Rural to Fruitland Park Multi-family High density.

The applicant is proposing development of a 240 multi-family apartment complex. The annexation, comprehensive plan amendment, rezoning, and planned development applications were approved at the November 3, 2022 Planning and Zoning Board meeting. (The second reading will be held on December 8, 2022.)

**FUNDS REQUIRED:** None

**ATTACHMENTS:** Draft Ordinance 2022-023, zoning maps, legal description, concept plan and elevations, justification, school currency, development application, map of property, advertising affidavit and October 14, 2022 staff report.

**RECOMMENDATION:** Staff recommends approval of Ordinance 2022-023.

**ACTION:** **Approval.**



**ORDINANCE 2022-023**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT BY AMENDING THE FUTURE LAND USE PLAN DESIGNATION FROM LAKE COUNTY RURAL TO CITY MULTI-FAMILY HIGH DENSITY ON 14.98 +/- ACRES OF PROPERTY GENERALLY LOCATED NORTH OF CR 466A AND EAST OF OLIVER LANE; DIRECTING THE CITY MANAGER OR DESIGNEE TO TRANSMIT THE AMENDMENT TO THE APPROPRIATE GOVERNMENTAL AGENCIES PURSUANT TO CHAPTER 163, FLORIDA STATUTES; AUTHORIZING THE CITY MANAGER TO AMEND SAID COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY, CONFLICTS AND SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, a petition has been received from Luxury Leased Homes, applicant on behalf of T.D. Burke, as Owner, requesting that real property within the city limits of the City of Fruitland Park be assigned a land use designation of "Multi-Family High Density" under the Comprehensive Plan for the City of Fruitland Park; and

**WHEREAS**, the required notice of the proposed small scale comprehensive plan amendment has been properly published as required by Chapter 163, Florida Statutes; and

**WHEREAS**, the Planning and Zoning Commission of the City of Fruitland Park and the Local Planning Agency for the City of Fruitland Park have reviewed the proposed amendment to the Comprehensive Plan and have made recommendations to the City Commission of the City of Fruitland Park.

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of Fruitland Park, Florida, as follows:

**Section 1:** The following described property consisting of approximately 14.98 ± acres generally located north of CR 466A and east of Oliver Lane as described and depicted as set forth on Exhibit "A" shall be assigned a land use designation of Multi-Family High Density under the City of Fruitland Park Comprehensive Plan as depicted on the map attached hereto as Exhibit "B" and incorporated herein by reference.

**Section 2:** A copy of said Land Use Plan Amendment is filed in the office of the city Manager of the City of Fruitland Park as a matter of permanent record of the City, matters and contents therein are made a part of this ordinance by reference as fully and completely as if set forth herein, and such copy shall remain on file in said office available for public inspection.

**Section 3. Direction to the City Manager.** Upon the effective date of this ordinance, the city manager is hereby authorized to amend the comprehensive plan and future land-use map as identified herein after compliance with F.S. 163.3187 and F.S. 163.3184(11).

**Section 4: Severability.** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

**Section 5:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 6: Scrivener’s Errors.** Scrivener’s errors in the legal description may be corrected without a public hearing or at public meeting, by re-recording the original ordinance or a certified copy of the ordinance and attaching the correct legal description.

**Section 7. Adoption.** After adoption, a copy hereof shall be forwarded to the Department of Economic Opportunity.

**Section 8:** This Ordinance shall become effective 31 days after its adoption by the City Commission. If this Ordinance is challenged within 30 days after its adoption, it may not become effective until the state land planning agency or Administrative Commission, respectively, issues a final order determining that this Ordinance is in compliance. No development permits or land uses dependent on this amendment may be issued or commence before it has become effective.

**PASSED AND ORDAINED** in regular session of the City Commission of the City of Fruitland Park, Lake County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Chris Cheshire, Mayor  
City of Fruitland Park, Florida

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Esther Coulson, MMC, City Clerk

\_\_\_\_\_  
Anita Geraci-Carver, City Attorney

|                       |              |             |                    |                |
|-----------------------|--------------|-------------|--------------------|----------------|
| Mayor Cheshire        | _____ (Yes), | _____ (No), | _____ (Abstained), | _____ (Absent) |
| Vice-Mayor Gunter     | _____ (Yes), | _____ (No), | _____ (Abstained), | _____ (Absent) |
| Commissioner Bell     | _____ (Yes), | _____ (No), | _____ (Abstained), | _____ (Absent) |
| Commissioner DeGrave  | _____ (Yes), | _____ (No), | _____ (Abstained), | _____ (Absent) |
| Commissioner Mobilian | _____ (Yes), | _____ (No), | _____ (Abstained), | _____ (Absent) |

Passed First Reading \_\_\_\_\_  
Passed Second Reading \_\_\_\_\_  
(SEAL)

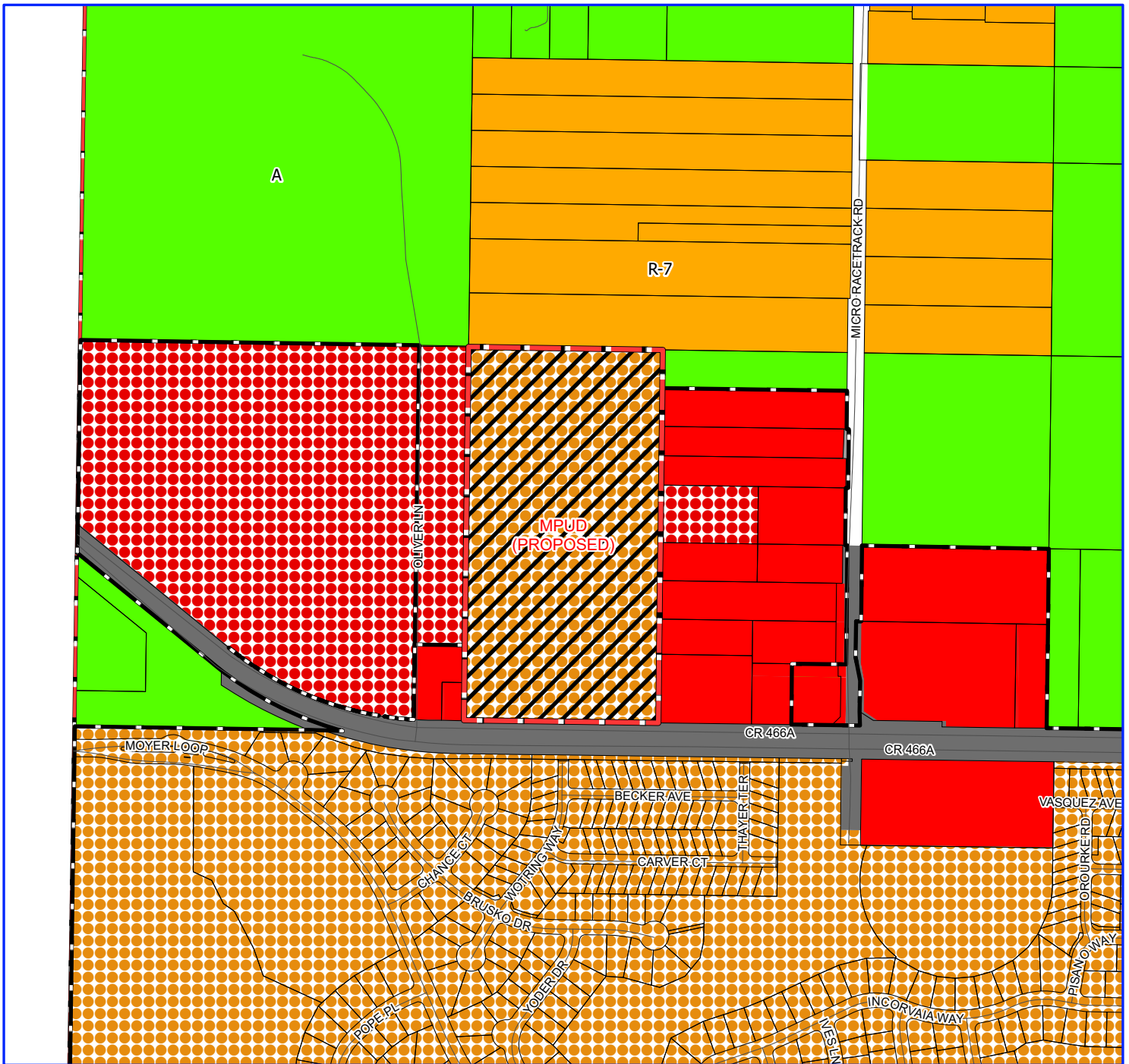
**“EXHIBIT A”**

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4" X4" CONCRETE MONUMENT NO ID AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE NORTH 00°49'19" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,326.69 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°07'47" EAST ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,327.37 FEET TO THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 41.38 FEET TO INTERSECT THE NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) AS SHOWN ON THE LAKE COUNTY ROAD MAP BOOK 2, PAGE 118; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 300.30 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 984.70 FEET TO THE NORTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°08'29" EAST ALONG THE NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 663.12 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 983.33 FEET; THENCE NORTH 89°15'33" WEST FOR 663.58 FEET TO THE POINT OF BEGINNING.

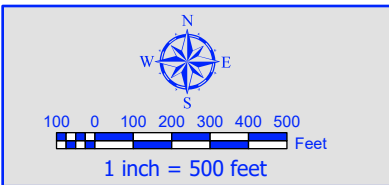
CONTAINING 652,744 SQUARE FEET OR 14.9849 ACRES, MORE OR LESS.

**EXHIBIT B**



**Legend**

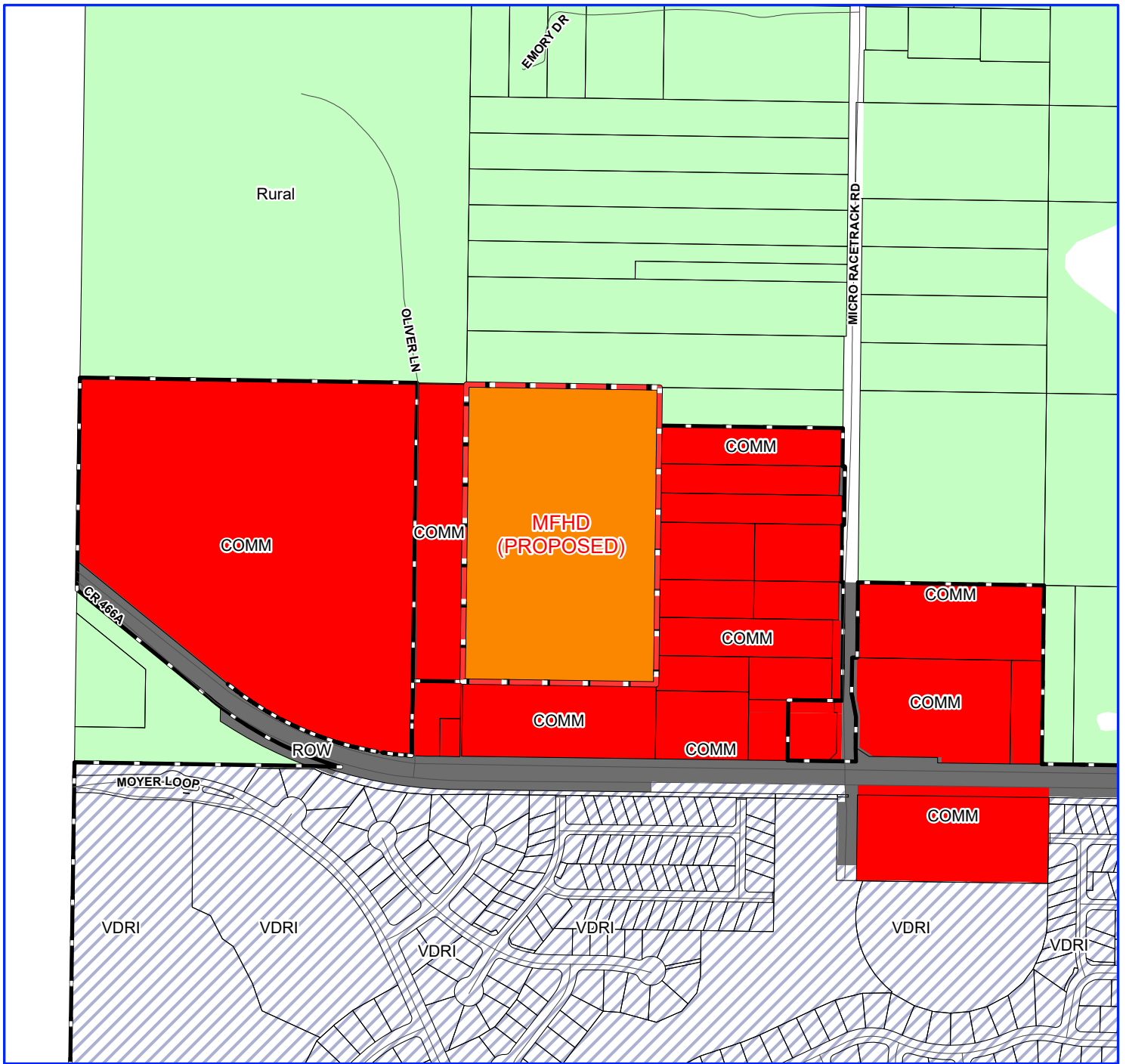
|                                      |  |
|--------------------------------------|--|
| Site Boundary                        | PUD, Planned Unit Development                      |
| <b>Lake County Zoning</b>            | CPUD, Commercial Planned Unit Development District |
| Agriculture                          | ROW, Right-of-Way                                  |
| Residential                          | MPUD, Mixed Use PUD                                |
| <b>City of Fruitland Park Zoning</b> |  |
| C-2, General Commercial              |  |




**City of Fruitland Park  
The Hawthornes**  
Lake County, Florida  
Proposed Zoning Map

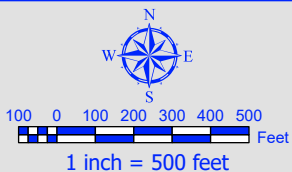
Project: 398-21-14  
File: Proposed Zoning  
Name: The Hawthornes  
PM: Sherie Lindh  
Date: October 6, 2022  
Created By: J. Wilson

**LPG Urban & Regional Planners, Inc.**  
1162 Camp Avenue, Mount Dora, Florida 32757  
Office: (352) 385-1940 / Fax: (352) 383-4824



**Legend**

- |  |  |
|--|--|
|  Site Boundary  |  ROW, Transportation                      |
|  Lake County Future Land Use<br>Rural                       |  VDRI, The Villages of Fruitland Park DRI |
|  City of Fruitland Park Future Land Use<br>COMM, Commercial |  MFHD, Multiple Family/High Density       |



**City of Fruitland Park**  
**The Hawthornes**  
 Lake County, Florida  
**Proposed Future Land Use Map**

Project: 398-21-14  
 File: The Hawthornes FLU  
 Name: The Hawthornes  
 PM: Sherie Lindh  
 Date: October 5, 2022  
 Created By: J.Wilson



LEGAL DESCRIPTION – OVERALL PARCEL- AS SURVEYED

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4" X4" CONCRETE MONUMENT NO ID AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE NORTH 00°49'19" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,326.69 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°07'47" EAST ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,327.37 FEET TO THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 41.38 FEET TO INTERSECT THE NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) AS SHOWN ON THE LAKE COUNTY ROAD MAP BOOK 2, PAGE 118 AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE FOR 300.30 FEET TO THE SOUTHWEST CORNER OF THE NORTH PARCEL; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 984.70 FEET TO THE NORTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°08'29" EAST ALONG THE NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 663.12 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 983.33 FEET TO THE SOUTHEAST CORNER OF THE NORTH PARCEL; THENCE SOUTH 00°50'21" WEST ALONG SAID EAST LINE FOR 300.30 FEET TO INTERSECTION WITH THE AFORESAID NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) (SAID POINT BEING NORTH 00°50'21"E 42.88 FEET FROM THE SOUTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6) ; THENCE NORTH 89°15'33" WEST ALONG SAID NORTH RIGHT OF WAY FOR 663.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 852,037 SQUARE FEET OR 19.5601 ACRES, MORE OR LESS.

LEGAL DESCRIPTION- NORTH PARCEL

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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CONTAINING 652,744 SQUARE FEET OR 14.9849 ACRES, MORE OR LESS.



LEGAL DESCRIPTION- SOUTH PARCEL

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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CONTAINING 199,293 SQUARE FEET OR 4.5751 ACRES, MORE OR LESS.

## LEGAL DESCRIPTION: NORTH PARCEL

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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CONTAINING 852,037 SQUARE FEET OR 19.5601 ACRES, MORE OR LESS.



AERIAL PHOTO & LOCATION MAP

SCALE: 1" = 1,200'

## SITE COVERAGES:

| LOT 1  | LOT 2   | LOT 3   | TOTAL PROJECT AREA |
|--|---------|---------|--------------------|
| SITE AREA 16.85 AC 100.0%  | 1.35 AC | 1.36 AC | 19.56 AC           |
| OPEN SPACE 5.82 AC 34.0%   |         |         |                    |
| STORMWATER POND 2.16 AC 12.8%                                    |         |         |                    |
| BUILDINGS 2.70 AC 16.0%  |         |         |                    |
| PAVEMENT & MISC. 6.27 AC 37.2%                                   |         |         |                    |
| RECREATION AREAS 0.89 AC 5.3%                                    |         |         |                    |
| ROW EASEMENT 0.90 AC 5.3%  |         |         |                    |
| <b>TOTAL IMPERVIOUS 8.97 AC 53.2%</b>                            |         |         |                    |
| <b>FAR = 7.26 AC (3-STY) + 0.28 AC (1-STY) / 16.85 AC = 0.45</b> |         |         |                    |
| <b>TOTAL PROPOSED UNITS = 240 UNITS</b>                          |         |         |                    |
| <b>PROPOSED DENSITY = 240 DU / 16.85 AC = 14.2 DU/AC</b>         |         |         |                    |

## PROPOSED BUILDING DATA:

- MINIMUM LIVING AREA OF APARTMENTS:
- 1 BEDROOM: 738 MIN SF
  - 2 BEDROOM: 1063 MIN SF
  - 3 BEDROOM: 1205 MIN SF
  - TYPE 1 BUILDING TOTAL GSF: 37,382 (X4) = 149,528
  - TYPE 2 BUILDING TOTAL GSF: 33,196 (X6) = 199,176

PROPOSED CLUBHOUSE: 4,000± SF (MIN)

- PROPOSED BUILDING HEIGHTS:
- TYPE 1: 30'-6" TO EAVE AND 38'-3" TO THE MEAN HEIGHT FOR BUILDING
  - TYPE 2: 30'-6" TO EAVE AND 37'-5" TO THE MEAN HEIGHT FOR BUILDING

## SETBACKS:

|                 | BUILDING | BUFFER |
|-----------------|----------|--------|
| FRONT (CR-466A) | 50'      | 25'    |
| SIDE (EAST)     | 25'      | 25'    |
| SIDE (WEST)     | 25'      | 25'    |
| REAR            | 25'      | 25'    |
| INTERIOR        | 10'      | N/A    |

## PARKING DATA:

STANDARD SPACES = 366 SPACES  
 POTENTIAL ADA SPACES = 12 SPACES  
 GARAGE SPACES = 35 SPACES  
 TOTAL = 413 SPACES  
 SPACES PER UNIT = 1.72

## NOTICE OF INTENT:

THE LOTS 2 & 3 ANTICIPATED USES ARE: DAY CARE CENTERS, BANKS, BARS AND LOUNGES, HEALTH AND EXERCISE CLUBS, HOTEL, MEDICAL OFFICE AND/OR CLINIC, OFFICES, RESTAURANTS, VETERINARY CLINIC, RETAIL STORE, APARTMENT LEASING CENTER AND CLUBHOUSE.

## LEGEND:

NOTE: NOT ALL SYMBOLS SHOWN HERE MAY BE APPLICABLE TO THESE DRAWINGS, ALSO THERE MAY BE ADDITIONAL SYMBOLS WITHIN PLANS NOT SHOWN HERE, SEE INDIVIDUAL DRAWING LEGEND WHERE APPLICABLE.

|  |        |  |
|--|--------|--|
| EXISTING CABLE TV PEDESTAL             | ●      | FOUND IRON ROD AND CAP (AS NOTED)              |
| EXISTING CAP OR PLUG                   | □      | FOUND CONCRETE MONUMENT (AS NOTED)             |
| EXISTING CLEAN OUT                     | ---    | EXISTING EASEMENT                              |
| EXISTING CONDUIT RISER/ MARKER         | —OHE—  | EXISTING OVERHEAD ELECTRIC CABLE               |
| EXISTING ELECTRIC METER                | —EC—   | EXISTING UNDERGROUND ELECTRIC CONDUIT/CABLE    |
| EXISTING ELEVATION (SOFT)              | —FDC—  | EXISTING UNDERGROUND FIBER OPTIC CABLE         |
| EXISTING ELEVATION (HARD)              | —FM—   | EXISTING FORCE MAIN (# INDICATES SIZE)         |
| EXISTING FIRE HYDRANT                  | —GAS—  | EXISTING GAS MAIN (# INDICATES SIZE)           |
| PROPOSED FIRE HYDRANT                  | —REC—  | EXISTING RECLAIM WATER MAIN (# INDICATES SIZE) |
| EXISTING FLOW DIRECTION                | —BSAN— | EXISTING SANITARY SEWER (# INDICATES SIZE)     |
| PROPOSED FLOW DIRECTION                | —BWM—  | EXISTING WATER MAIN (# INDICATES SIZE)         |
| EXISTING GAS METER                     | —UTEL— | EXISTING UNDERGROUND TELEPHONE CABLE           |
| EXISTING GAS VALVE                     | —UTV—  | EXISTING UNDERGROUND TELEVISION CABLE          |
| EXISTING GUY WIRE & ANCHOR PIN         | —UTC—  | EXISTING OVERHEAD TRAFFIC SIGNAL CABLE         |
| EXISTING MAIL BOX                      | —SAN—  | PROPOSED SANITARY SEWER (# INDICATES SIZE)     |
| EXISTING MANHOLE (UNKNOWN)             | —WM—   | PROPOSED WATER MAIN (# INDICATES SIZE)         |
| PROPOSED MANHOLE                       | ---    | EXISTING SWALE OR CENTER OF DITCH              |
| EXISTING SANITARY SEWER CLEANOUT       | ---    | PROPOSED SWALE OR CENTER OF DITCH              |
| EXISTING SANITARY SEWER MANHOLE        | ---    | EXISTING TOP OF DITCH BANK                     |
| EXISTING ROAD SIGNS AND POSTS          | ---    | EXISTING BOTTOM OF DITCH BANK                  |
| PROPOSED SIGN AND POST                 | ---    | EXISTING WOOD FENCE                            |
| EXISTING TEE                           | X      | EXISTING WIRE OR CHAIN LINK FENCE              |
| EXISTING UTILITY POLE                  | X      | PROPOSED WIRE OR CHAIN LINK FENCE              |
| EXISTING VALVE IRRIGATION              | □      | PROPOSED SEDIMENT FENCE                        |
| EXISTING VALVE WATER                   | V      | PROPOSED VISI-BARRIER                          |
| PROPOSED WATER VALVE                   | ---    | EXISTING CONTOUR                               |
| EXISTING WATER METER                   | ---    | PROPOSED CONTOUR (SOFT)                        |
| EXISTING STORM SEWER WITH INLET        | ---    | PROPOSED CONTOUR (HARD)                        |
| PROPOSED STORM SEWER WITH INLET        | ---    |  |
| PROPOSED SITE LIGHT POLES AND FIXTURES | ---    |  |
| PROPOSED BACTERIOLOGICAL TEST POINT    | △      |  |

| INDEX OF SHEETS |                      |           |
|-----------------|----------------------|-----------|
| SHEET #         | DESCRIPTION          | REVISIONS |
| 1               | COVER SHEET          |           |
| 2               | CONCEPTUAL SITE PLAN |           |

## REVISIONS

| DATE | DESCRIPTION |
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**UPHAM**  
 CIVIL ENGINEERING-SURVEYING-LANDSCAPE ARCHITECTURE  
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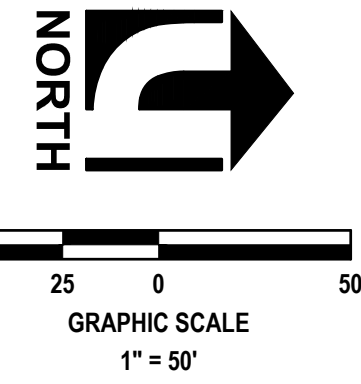


COVER SHEET  
 COUNTY ROAD 466A  
 FRUITLAND PARK

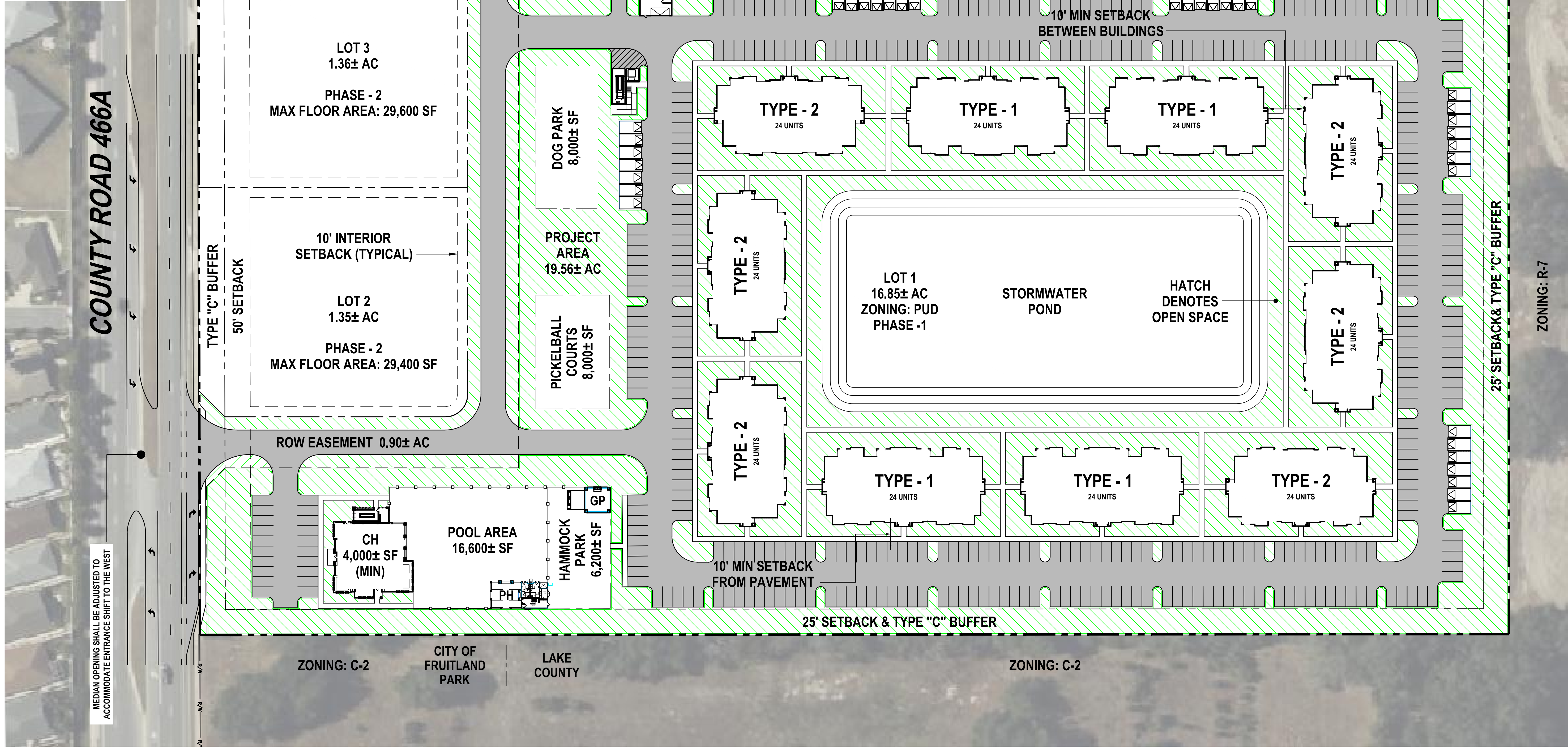
PROJECT No: 220802  
 DATE: OCTOBER 13, 2022  
 DESIGN BY: RWS  
 DRAWN BY: JMB  
 CHECKED BY: RWS  
 SCALE: 1" = 50'

SHEET NUMBER:

1



**NOTE:**  
BUILDINGS OR STRUCTURES LOCATED IN THE COMMERCIAL HIGH INTENSITY FLU WILL ADHERE TO THE CITY'S NON-RESIDENTIAL DESIGN CRITERIA



**PAVING LEGEND:**

- ASPHALT PAVEMENT  1.5" SUPERPAVE FDOT SP-9.5, PER FDOT - SSRBC, SECTION 234
- 6" LIMEROCK BASE (LBR 100) MIN OF 98% MOD. PROCTOR MAX DRY DENSITY PER FDOT - SSRBC, SECTION 200 & 230 & SECTION 911 LATEST VERSION ALTERNATIVELY, CRUSH CONCRETE OF EQUAL THICKNESS. GRADATION SHOULD MEET FDOT SSRBC, SECTION 334-5.2.4
- 12" STABILIZED SUBGRADE (LBR 40) PER FDOT - SSRBC, SECTION 160, PAGE 196 (TYPE B) AND COMPACTED TO 98% (MIN) MOD. PROCTOR MAX DRY DENSITY PER AASHTO T-180 (SEE DETAIL ON SHEET C410)

**REVISIONS**

| DATE | DESCRIPTION |
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 LE # 0003612 LC # 0000357

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**LUXURY LEASED HOMES**

**CONCEPTUAL SITE PLAN**

COUNTY ROAD 466A  
 FRUITLAND PARK

PROJECT No: 220802  
 DATE: OCTOBER 13, 2022  
 DESIGN BY: RWS  
 DRAWN BY: JMB  
 CHECKED BY: RWS  
 SCALE: 1" = 50'

SHEET NUMBER:

**2**

NOT VALID UNLESS SIGNED AND DATED



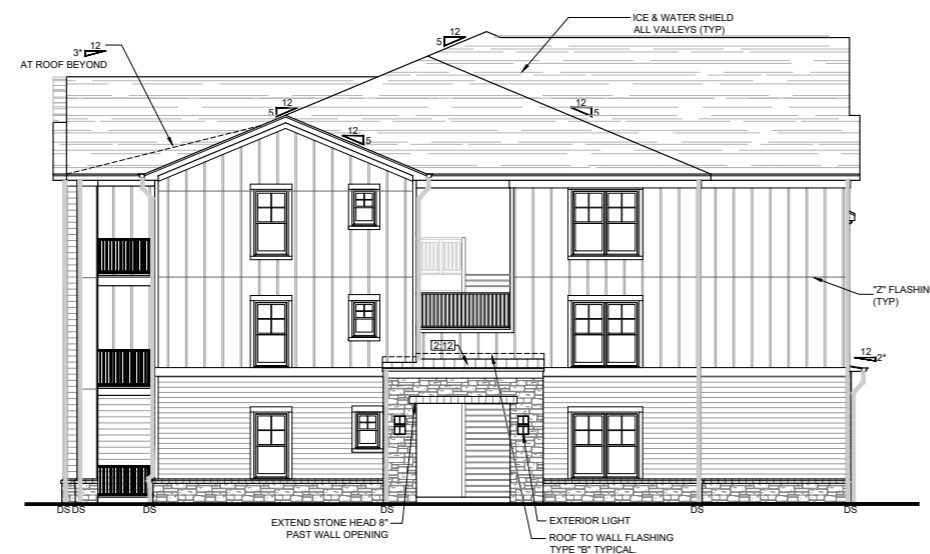




**BUILDING TYPE 1  
REAR ELEVATION**  
SCALE: 1/8"=1'-0"

| ARCHITECTURAL PLANS<br>EXTERIOR MATERIALS |  |
|---|--|
|   | = ASPHALT SHINGLE ROOF   |
|   | = STANDING SEAM METAL ROOF   |
|   | = FIBER CEMENT LAP SIDING  |
|   | = BOARD & BATTEN SIDING - VERTICAL 1x3 FIBER CEMENT BATTENS @ 24" O.C. OVER 5/16" FIBER CEMENT PANELS TYP. |
|   | = CULTURED STONE VENEER  |
|   | = STONE SILL   |

- ELEVATION GENERAL NOTES**
- ★ 1-USE ICE AND WATER SHIELD AT ALL ROOF PLANES SLOPED BELOW 4:12.
  - 2-SEE ROOF PLANS FOR ATTIC VENTILATION CALCULATION REQUIREMENTS.
  - 3-PAINT ALL WALL AND ROOF PENETRATIONS THE SAME COLOR AS ADJACENT MATERIAL.



**BUILDING TYPE 1  
SIDE ELEVATION**  
SCALE: 1/8"=1'-0"



## The Hawthorns at Fruitland Park Comprehensive Plan Map Amendment

### Justification Narrative

The applicant, Luxury Leased Homes, is filing for a Small-Scale Comprehensive Plan Amendment to change the Future Land Use from Rural and Commercial High Intensity to Multi-Family High Density Residential Future Land Use in accordance with Policy 1-1.7. for Alt Key Numbers 1699649 and 3884325 located at 305 CR 466A on 19.57± acres within the City of Fruitland Park and Lake County, Florida.

The requested change is necessary to serve a proposed residential development consisting of two-family (duplex) residential uses in a rental community providing a need within the City of Fruitland Park. The change in land use will allow a large density of residences for the City which may reduce the need to commute to adjacent municipalities for housing and/or employment and therefore capture the population base within the community boundaries.

A concurrent rezoning application will be filed for The Ranch at Fruitland Park development to incorporate development plans and conditions to ensure compliance with the City's Goals, Objectives, and Policies for the area.

The proposed amendment is not inconsistent with the goals, objectives, and policies of the comprehensive plan. The Comprehensive Plan Future Land Use Policy 1-1.7 Multi-Family High Density Residential allows the proposed residential use with a density not to exceed 15 units per acres, however the developer proposes a voluntary density not to exceed 11± dwelling units per acre. The Comprehensive Plan Table 1-1 indicates there is 204.98 acres of vacant Multi-Family High Density remaining. This request is within the allowable range of available land for this future land use.

The adjacent properties to the west have a Commercial and Rural Future Land Use designations. The properties to the north are located within the unincorporated Lake County limits and have a Rural Future Land Use designation. The properties to the east are designated as Commercial and the properties to the south, including beyond CR 466A (Miller Boulevard), are designated The Villages of Fruitland Park (VDRI). This Future Land Use is compatible with the adjacent Future Land Uses as it provides a stepping stone to adjacent uses.

The City of Fruitland Park encourages a mix of housing types and styles that provide people with affordable housing choices that can accommodate changes in lifestyle. This development will provide a different housing type than currently available within the area allowing for a variety of housing types to accommodate a diversity of housing needs. The City's projects a demand for 5,460 housing units by 2035 with the established Future Land Use Map having sufficient vacant capacity to accommodate 8,371 housing units.

The proposed amendment should not be considered urban sprawl or exemplify an energy inefficient land use pattern. The proposed development is located within the City limits of The City of Fruitland Park along with the annexation request for the northern 15.00± acres, with public utilities available to the property.

The proposed amendment will not have an adverse effect on environmentally sensitive systems as the only wetlands identified on the property are part of the water detention system previously constructed as part of the “Burke’s BBQ” restaurant. Six (6) gopher tortoise burrows were the only protected species of wildlife observed on the property and will be permitted through the proper agencies if required. Attached is ecological and wildlife report conducted by Modica and Associates.

According to the FEMA Flood Map 12069C0305E, the property is located within Zone X, which indicates the property is in an area of minimal flood hazard.

Transportation – The Transportation Element of the Comprehensive Plan identifies CR 466A as being within the jurisdiction of Lake County as an arterial for the City of Fruitland Park.

A Traffic Impact Analysis conducted by Traffic Impact Group, LLC dated November 11, 2021 states the development proposes to generate 1,486 trips per day with 21 entering trips and 72 existing trips in AM peak hour trips and 69 entering and 41 exiting trips in the PM peak hour are attributed to the development. CR 466A analysis indicates the roadway segment is projected to continue to operate at an acceptable level of service. No right turn lanes from CR 466A are needed for the site driveways.

Therefore, the report notes the development does not cause a capacity deficiency on the adjacent roadway and it is expected to continue to operate in acceptably with no improvements recommended.

Potable Water & Sewer – The Comprehensive Plan Objectives 4-10 and 4-2 for water and sewer specify Goals and Policies for adherence for development connection to City of Fruitland Park public utilities. This development is currently served by well and septic facilities. There is an existing wastewater line running along CR 466A in front of the parcel which may be utilized to provide service to the development. However, the closest water facility is located to the east at the intersection of CR 466A and Micro Racetrack Road. Reclaimed water is not currently available for irrigation, however, current regulations require a dry line be installed for this service when it becomes available.

Utilizing a single-family residence as the highest basis factor for conversion, the estimated usage is calculated as follows:

204 dwelling units = 204 ERU’s

204 ERU’s x 300 gpd (water) = 61,200 gpd total water increase for the development

204 ERU’s x 250 gpd (sewer) = 51,000 gpd total wastewater increase for the development

Solid Waste – Objective 4-6 of the Comprehensive Plan outlines the City’s Solid Waste policies. The City’s Solid Waste is currently collected by a contracted carrier for curbside pickup on a weekly schedule. We anticipate the development to produce approximately:

204 dwelling units x 2.76 persons per unit = 563 persons

563 persons x 7 pounds/day = 3,941 pounds per day

The Public School Facilities Element (Chapter 10) – The proposed development will add up to 204 residential dwelling units to the City of Fruitland Park thus increasing the potential number of students in the nearby elementary, middle and high schools. The potential impact the local school system may be as follows:



204 Dwelling Units x 0.155 students/household = 31.62 or 32 elementary students  
 204 Dwelling Units x 0.13 students/household = 26.52 or 27 middle and high students

Ms. Helen Lavalley of the Lake County School District noted the local elementary school may have capacity limitations in the near future, however expansions are currently in the design stage. Capacity for the middle and high schools have adequate capacity at the present time for the addition of students. The City of Fruitland Park Elementary School notes current student stations available at 35 of their 765 capacity. Carver Middle School has a 1129 student capacity with a current student count of 784 and Leesburg High School notes current student count of 1625 with their 1982 capacity.

Lake County Schools' 2021-2025 capital improvement plan includes \$65 million of new and expanded schools, and \$106 million for school renovations and modernization. An expansion of the Villages Elementary School in Lady Lake is expected to open in 2025, which will relieve pressure on the Fruitland Park Elementary School.

Fruitland Park Elementary School

35 Open Concurrency Capacity – 32 potential students from development = 3 remaining student capacity

Carver Middle School

345 Open Concurrency Capacity – 16 potential students from development = 328 remaining student capacity

Leesburg High School

357 Available Stations – 23 potential students from development = 334 remaining student stations

Stormwater – The development will meet the City's code requirements and obtain permits from the St. Johns River Water Management District at the development approval/site plan approval review application in accordance with Policies put forth in Goal 4A. A copy of the approved permit will be supplied to the City.

Recreation and Open Space – The residential development is proposing to provide onsite amenities to provide recreational services and proper open space for their residents. A clubhouse with swimming pool, 24-hour fitness, coffee bar, pickle ball court, tot lot and dog park will be included.

The proposed plan amendment will not adversely affect transportation, potable water, sewer, schools or other public facilities without providing remedies to correct the system or facility as noted by the information provided above. The proposed plan amendment is consistent with and generally furthers the State Comprehensive Plan.



## **The Hawthorns at Fruitland Park Small Scale Comprehensive Plan Map Amendment Justification Narrative**

Subject Real Estate: The Project consist of two (2) parcels which combine for 19.58 acres:

- Alt Key 1699649 (the “South Parcel”) is located within the City of Fruitland Park, and shall retain the Commercial High Intensity FLU.
- Alt Key 3884325 (the “North Parcel”) is located in unincorporated Lake County, however if approved, shall be annexed into the City of Fruitland Park and this SCCPA assigns a Multi-Family High Density Residential FLU.

### **Applicant’s Request**

The applicant, **LUXURY LEASED HOMES**, is filing for a Small-Scale Comprehensive Plan Amendment for the North Parcel (Alt Key 3884325) which would change the Future Land Use from Rural to Multi-Family High Density Residential Future Land Use. The South Parcel (Alt Key 1699649) is not a part of the SCCPA request, as the existing Commercial High Intensity FLU shall remain in effect.

Applicant requests a concurrent rezoning amendment to a Mixed Use PUD, which includes both the South and North Parcels, in order to construct a community which will offer traditional commercial uses along CR 466A, in the form of commercial buildings, and a proposed residential development consisting of multi-family apartment homes in a rental community providing a need within the City of Fruitland Park. The change in land use will allow a large density of residences for the City which may reduce the need to commute to adjacent municipalities for housing and/or employment and therefore capture the population base within the community boundaries.

The proposed amendment is not inconsistent with the goals, objectives, and policies of the comprehensive plan. The Comprehensive Plan Future Land Use Policy 1-1.7 Multi-Family High Density Residential allows the proposed residential use with a density not to exceed 15 units per acres, however the developer proposes a voluntary density not to exceed 240 apartment homes across the 19.58 acres. The Comprehensive Plan Table 1-1 indicates there is 204.98 acres of vacant Multi-Family High Density remaining. This request is within the allowable range of available land for this future land use.

The Applicant’s proposal to provide commercial uses along the CR 466A frontage maintains the commercial integrity of the corridor, a stated priority in Fruitland Park.

### **Compatibility with Adjacent Uses**

To our West, the adjacent properties have a Commercial and Rural Future Land Use designations. A 140,000 Sq. ft. retail project (The Commons) has been approved.

333 North Alabama Street, Suite 350  
Indianapolis, IN 46204  
P: 317-677-7125



To our South exists the Villages of Fruitland, an age-restricted residential community of a housing density and home sizes similar to our proposed project.

To our East, the properties are designated Commercial.

The properties to the north are located within the unincorporated Lake County limits and have a Rural Future Land Use designation. The properties consist of 3- to 5-acre homesteads, accessible off Micro Racetrack Road. Applicant contends that its mixed-use project provides a transitional use between the high intensity retail project The Commons and proposes 35' deep landscaped buffer yards to mitigate the impact of the change in zoning. It is noteworthy that no existing homes are located within 500' of the Hawthorns.

The City of Fruitland Park encourages a mix of housing types and styles that provide residents with affordable housing choices that can accommodate changes in lifestyle. This development will provide workforce housing and add to the of housing options. The City's projects a demand for 5,460 housing units by 2035 with the established Future Land Use Map having sufficient vacant capacity to accommodate 8,371 housing units.

The proposed amendment should not be considered urban sprawl or exemplify an energy inefficient land use pattern. The proposed development is located within the City limits of The City of Fruitland Park along with the annexation request for the northern 15.00± acres, with public utilities available to the property.

The proposed amendment will not have an adverse effect on environmentally sensitive systems as the only wetlands identified on the property are part of the water detention system previously constructed as part of the "Burke's BBQ" restaurant. Six (6) gopher tortoise burrows were the only protected species of wildlife observed on the property and will be permitted through the proper agencies. A 100% survey will be completed within 90-days of a construction start. Attached is ecological and wildlife report conducted by Modica and Associates, as well as a follow-up note dated 3/7/22.

According to the FEMA Flood Map 12069C0305E, the property is located within Zone X, which indicates the property is in an area of minimal flood hazard.

Transportation – The Transportation Element of the Comprehensive Plan identifies CR 466A as being within the jurisdiction of Lake County as an arterial for the City of Fruitland Park.

A Traffic Impact Analysis conducted by Traffic Impact Group, LLC dated August 16, 2022 states the development proposes to generate 28 entering trips and 90 exiting trips in the AM peak hour and 100 entering and 66 exiting trips in the PM peak hour are attributed to the development. CR 466A analysis indicates the roadway segment is projected to continue to operate at an acceptable level of service. A right turn lane, along west-bound CR 466A, will be provided, which meets Lake County criteria.



Therefore, the report notes the development does not cause a capacity deficiency on the adjacent roadway and it is expected to continue to operate in acceptable level of service.

Potable Water & Sewer – The Comprehensive Plan Objectives 4-10 and 4-2 for water and sewer specify Goals and Policies for adherence for development connection to City of Fruitland Park public utilities. This development is currently served by well and septic facilities. There is an existing wastewater line running along CR 466A in front of the parcel which may be utilized to provide service to the development. However, the closest water facility is located to the east at the intersection of CR 466A and Micro Racetrack Road. Reclaimed water is not currently available for irrigation, however, current regulations require a dry line be installed for this service when it becomes available.

The estimated usage for the residential portion is calculated as follows:

240 Multi-Family Homes at a 0.75 Per Unit Factor = 180 ERU's  
180 ERU's x 300 gpd (water) = 54,000 gpd total water increase for the development  
180 ERU's x 250 gpd (sewer) = 45,000 gpd total wastewater increase for the development

Solid Waste – Objective 4-6 of the Comprehensive Plan outlines the City's Solid Waste policies. The City's Solid Waste is currently collected by a contracted carrier for curbside pickup on a weekly schedule. We anticipate the development to produce approximately:

240 dwelling units x 2.76 persons per unit = 663 persons  
663 persons x 7 pounds/day = 4,637 pounds per day

The Public School Facilities Element (Chapter 10) – The proposed development will add up to 240 residential dwelling units to the City of Fruitland Park thus increasing the potential number of students in the nearby elementary, middle and high schools. The potential impact to the local school system is projected, by Lake County Schools, follows:

- Seventy-Two (72) students, based on an estimate of 255 new homes

A "School Concurrency Application & Service Provider" was submitted to Lake County Schools by the Applicant. On 2/16/22, Ms. Helen Lavalley of the Lake County School District issued a School Concurrency Capacity Reservation (attached) noting that **"The Analysis performed indicates the level of service standards for each school level will not be exceeded by the students generated from this residential development."**

Stormwater – The development will meet the City's code requirements and obtain permits from the St. Johns River Water Management District at the development approval/site plan approval review application in accordance with Policies put forth in Goal 4A. A copy of the approved permit will be supplied to the City.



Recreation and Open Space – The residential development is proposing to provide onsite amenities to provide recreational services and proper open space for their residents. A clubhouse with swimming pool, 24-hour fitness, coffee bar, pickle ball court, tot lot and dog park will be included.

The proposed plan amendment will not adversely affect transportation, potable water, sewer, schools or other public facilities without providing remedies to correct the system or facility as noted by the information provided above. The proposed plan amendment is consistent with and generally furthers the State Comprehensive Plan.



**Superintendent:**  
Diane S. Kornegay, M.Ed.

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

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201 West Burleigh Boulevard · Tavares · FL 32778-2496  
(352) 253-6500 · Fax: (352) 253-6503 · [www.lake.k12.fl.us](http://www.lake.k12.fl.us)

February 16, 2022

Mr. Jose Kreutz  
Luxury Leased Homes USA  
333 N. Alabama Street, #350  
Indianapolis, IN 46204

**RE: The Hawthorns at Fruitland Park – City of Fruitland Park  
School Concurrency Capacity Reservation (District Project #LCS2022-06)  
Alternate Keys: 1699649, 3884325**

Dear Mr. Kreutz:

The School Board of Lake County has reviewed the application information for the above referenced residential development. The application indicates 183 single family dwelling units. The proposed development is estimated to generate approximately sixty-four (64) students.

Based on the information provided in the application the property is located within Concurrency Service Area (CSA) #9. The analysis performed indicates the level of service standards for each school level will **not** be exceeded by the students generated from this residential development.

It has been determined at this time that school capacity is available and will be reserved for your project. **This capacity reservation will expire one year from date of issuance.** In the event, a final development order is obtained within the year this capacity reservation will be valid for the life of the project. Please notify the school district when the final development order is obtained in order to update the project records.

If you should require additional time to obtain the final development order approval, please notify District staff prior to the expiration date to discuss time extension options. Once the reservation expires, the capacity will be released and a new completed application and fee will be required. If you have any questions, please contact me at (352) 253-6694 or at [lavalleyh@lake.k12.fl.us](mailto:lavalleyh@lake.k12.fl.us).

Sincerely,

Helen LaValley  
Growth Planning Department

Encl: School Concurrency Availability Determination

# Lake County Florida School Board CIP

## School Concurrency Availability Determination

**Project Name:** The Hawthorns at Fruitland Park  
**Date Received:** 2/8/2022  
**Case Number:** LCS2022-06  
**Builder Name:** TD Burke, owner  
**Location:** NEC of CR466A (Miller Str) and Oliver Lane

**Project Planned Units:**  
**# Single Family:** 183      **# Multi-Family:** 0  
**# Townhomes:** 0      **# Apartments:** 0

**Additional Information:** 11/30/21 Recd FLUA & Rez project information  
 2/8/22 Recd SC app

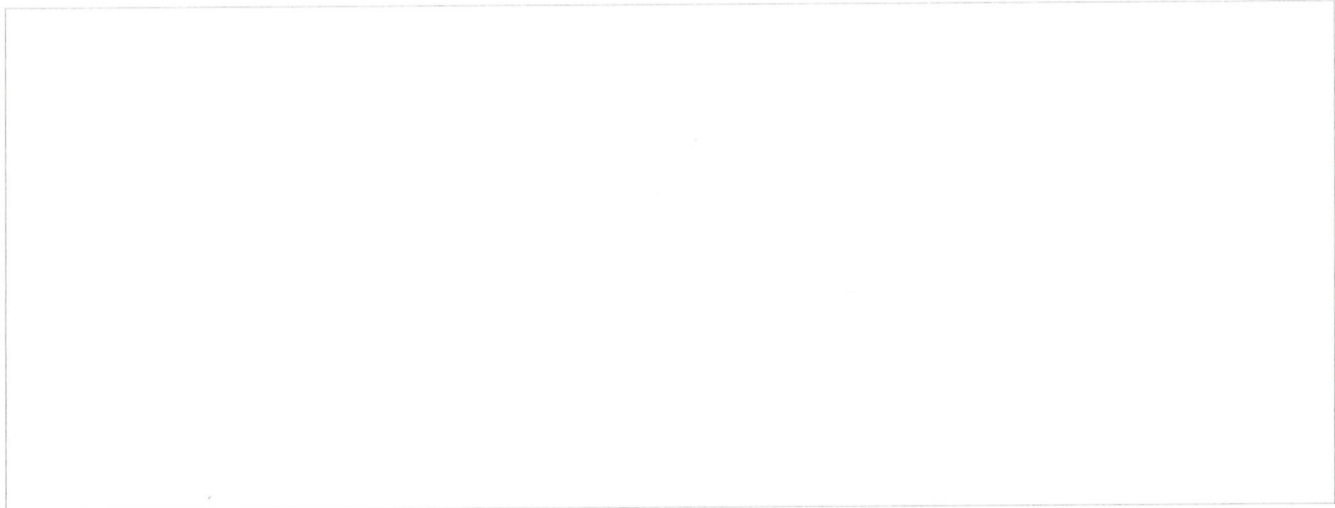
**Project Unit Yield By Type of School**

|               | Yield | Elem | Mid | High |
|---------------|-------|------|-----|------|
| Single Family | 0.157 | 29   |     |      |
| Single Family | 0.114 |      |     | 21   |
| Single Family | 0.079 |      | 14  |      |

**Service Area Analysis**

| Concurrency Service Area (CSA) | Current Capacity | Programmed Capacity | Total Capacity | Current Enrollment | Reserved Demand | Total Demand | Available Capacity | Project Demand |
|--------------------------------|------------------|---------------------|----------------|--------------------|-----------------|--------------|--------------------|----------------|
| CSA #9 - Elementary            | 1969             | 262                 | 2231           | 1689               | 389             | 2078         | 153                | 29             |
| CSA #9 - Middle                | 1129             | 0                   | 1129           | 812                | 128             | 940          | 189                | 14             |
| CSA #9 - High                  | 1982             | 0                   | 1982           | 1575               | 318             | 1893         | 89                 | 21             |

Project Demand may differ from Project Yield by Type of School due to rounding



The Villages  
**DAILY SUN**

Published Daily  
Lady Lake, Florida  
State of Florida  
County Of Lake

Before the undersigned authority personally appeared **Joseph Szabo**, who on oath says that she is Legal Ad Coordinator of the DAILY SUN, a daily newspaper published at Lady Lake in Lake County, Florida with circulation in Lake, Sumter and Marion Counties; that the attached copy of advertisement, being a Legal #1091730 in the matter of

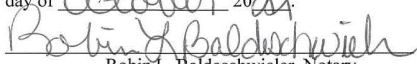
**NOTICE OF PUBLIC HEARING**

was published in said newspaper in the issues of

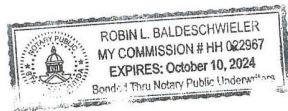
**OCTOBER 26, 2022**

Affiant further says that the said Daily Sun is a newspaper published at Lady Lake in said Lake County, Florida, and that the said newspaper has heretofore been continuously published in said Lake County, Florida each week and has been entered as second class mail matter at the post office in Lady Lake, in said Lake County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisements; 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.

  
(Signature Of Affiant)

Sworn to and subscribed before me this 28  
day of October 2022  
  
Robin L. Baldeschwieler, Notary

Personally Known X or \_\_\_\_\_  
Production Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



**NOTICE OF  
PUBLIC HEARING**

ORDINANCE 2022-025

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE BOUNDARIES OF THE CITY OF FRUITLAND PARK, FLORIDA, IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN SECTION 171.044, FLORIDA STATUTES, TO INCLUDE WITHIN THE CITY LIMITS APPROXIMATELY 15.00 ± ACRES OF LAND GENERALLY LOCATED NORTH OF CR 466-A, EAST OF OLIVER LANE AND WEST OF MICRO RACETRACK ROAD; DIRECTING THE CITY MANAGER TO PROVIDE CERTIFIED COPIES OF THIS ORDINANCE AFTER APPROVAL TO THE CLERK OF THE CIRCUIT COURT, THE LAKE COUNTY MANAGER AND THE DEPARTMENT OF STATE OF THE STATE OF FLORIDA; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY AND CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 2022-023

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT BY AMENDING THE FUTURE LAND USE PLAN DESIGNATION FROM LAKE COUNTY RURAL TO CITY MULTI-FAMILY HIGH DENSITY ON 14.98 +/- ACRES OF PROPERTY GENERALLY LOCATED NORTH OF CR 466A AND EAST OF OLIVER LANE; DIRECTING THE CITY MANAGER OR DESIGNEE TO TRANSMIT THE AMENDMENT TO THE APPROPRIATE GOVERNMENTAL AGENCIES PURSUANT TO CHAPTER 163, FLORIDA STATUTES; AUTHORIZING THE CITY MANAGER TO AMEND SAID COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY, CONFLICTS AND SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 2022-024

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, REZONING 19.56 ± ACRES OF PROPERTY FROM CITY OF FRUITLAND PARK C-2 AND LAKE COUNTY AGRICULTURE TO CITY OF FRUITLAND PARK MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) WITHIN THE CITY LIMITS OF FRUITLAND PARK FOR RESIDENTIAL AND COMMERCIAL USE; APPROVING A MASTER DEVELOPMENT AGREEMENT FOR THE PROPERTY; DIRECTING THE CITY MANAGER TO HAVE AMENDED THE ZONING MAP OF THE CITY OF FRUITLAND PARK; PROVIDING FOR SEVERABILITY AND SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

RESOLUTION 2022-062

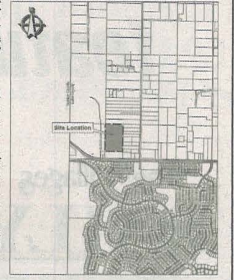
A ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A DECLARATION OF UNITY OF TITLE UNIFYING AS AN INDIVISIBLE BUILDING SITE, TWO PROPERTIES LOCATED AT MICRO RACETRACK RD., FRUITLAND PARK, FLORIDA, OWNED BY FRUITLAND GROVE, LLC AND IDENTIFIED BY THE LAKE COUNTY PROPERTY APPRAISER AS ALTERNATE KEY NUMBER 1288151 AND ALTERNATE KEY NUMBER 1699665; PROVIDING FOR A DECLARATION OF UNITY OF TITLE TO BE RECORDED IN THE PUBLIC RECORDS OF LAKE COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed Ordinances/Resolution will be considered at the following public meetings:

Fruitland Park Planning & Zoning Board Meeting on November 3, 2022 at 6:00 p.m.  
Fruitland Park City Commission Hearing on November 10, 2022 at 6:00 p.m.  
Fruitland Park City Commission Hearing on December 8, 2022 at 6:00 p.m.

The public meetings will be held in the Commission Chambers located at City Hall, 506 West Berkman Street, Fruitland Park FL 34731. These meetings are open to the public and hearings may be continued as determined by the P&Z Board and City Commission from time to time to a date certain. The proposed Ordinances/Resolution and metes and bounds legal description of property may be inspected by the public during normal working hours at City Hall. For further information call 352-360-6727. Interested parties may appear at the meetings and will be heard with respect to the proposed Ordinances/Resolution.

A person who decides to appeal any decision made by any board, agency or council with respect to any matter considered at such meeting or hearing, will need a record of the proceedings. For such purposes, any such person may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is based (Florida Statutes, 286.0105). Persons with disabilities needing assistance to participate in any of these proceedings should contact Esther Coulson, City Clerk at (352) 360-6790 at least 48 hours before the date of the scheduled hearing.







**City of Fruitland Park, Florida**  
**Community Development Department**  
 506 W. Berckman St., Fruitland Park, Florida 34731  
 Tel: (352) 360-6727 Fax: (352) 360-6652  
 www.fruitlandpark.org

|                     |       |
|---------------------|-------|
| <i>Sta Use Only</i> |       |
| Case No.:           | _____ |
| Fee Paid:           | _____ |
| Receipt No.:        | _____ |

## Development Application

Contact Information:

Owner Name: T D Burke  
 Address: P.O. Box 816, Fruitland Park, Florida 34731-0816  
 Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Applicant Name: Luxury Leased Homes USA, LLC  
 Address: 333 N. Alabama St., Ste. 350, Indianapolis, IN 46204  
 Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Engineer Name: Morris Engineering & Consulting, LLC  
 Address: 6997 Professional Pkwy E, Sarasota, FL 34240  
 Phone: 941-444-6644 Email: lstewart@morrisengineering.net

Property and Project Information:

**PROJECT NAME\*:** The Ranch at Fruitland Park  
 \*A project name is required for all submissions. Please choose a name representative of the project for ease of reference.

Property Address: 305 CR 466A, Fruitland Park  
 Parcel Number(s): 1699649 and 3884325 Section: 6 Township: 19 Range 24  
 Area of Property: 19.57± acres Nearest Intersection: CR 466A and Oliver Lane  
 Existing Zoning: A & C-2 Existing Future Land Use Designation: Rural and Comm High Intensity  
 Proposed Zoning: Res. PUD Proposed Future Land Use Designation: Multi-Family High Density

The property is presently used for: Restaurant, single family and landscape company  
 The property is proposed to be used for: Residential homesites with related amenities and infrastructure  
 Do you currently have City Utilities? No

Application Type:

- |  |  |   |  |
|--|--|---|--|
| <input type="checkbox"/> Annexation      | <input type="checkbox"/> Comp Plan Amendment   | <input type="checkbox"/> Rezoning               | <input type="checkbox"/> Planned Development |
| <input type="checkbox"/> Variance        | <input type="checkbox"/> Special Exception Use | <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Final Plat          |
| <input type="checkbox"/> Minor Lot Split | <input type="checkbox"/> Preliminary Plan      | <input type="checkbox"/> Construction Plan      | <input type="checkbox"/> ROW/Plat Vacate     |
| <input type="checkbox"/> Site Plan       | <input type="checkbox"/> Minor Site Plan       | <input type="checkbox"/> Replat of Subdivision  |  |

Please describe your request in detail: \_\_\_\_\_

**Required Data, Documents, Forms & Fees**

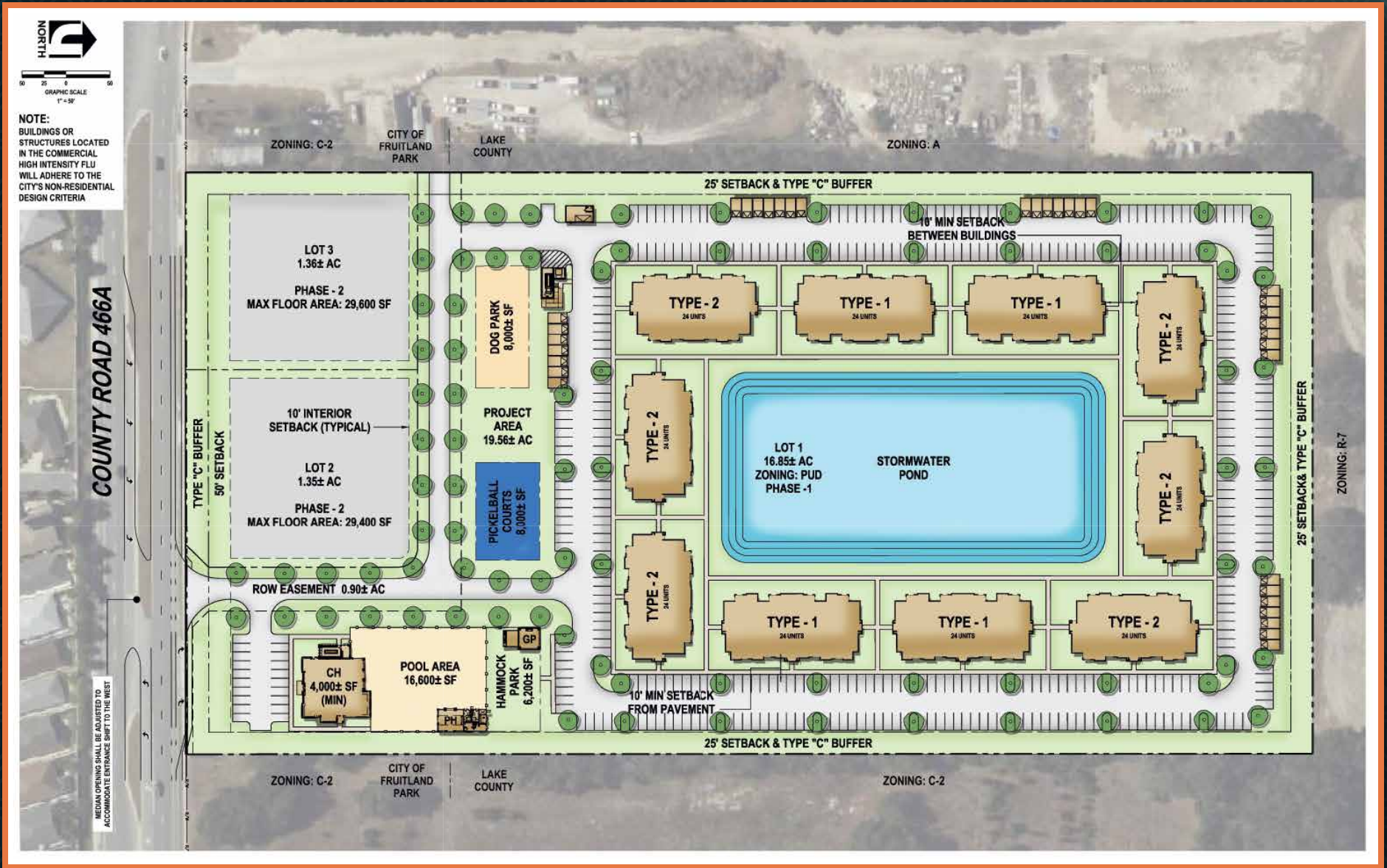
Attached to this application is a list of **REQUIRED** data, documents and forms for each application type as well as the adopted fee schedule. These items must be included when submitting the application package. Failure to include the supporting data will deem your application package **INCOMPLETE** and will not be processed for review.

Printed Name: Jose Kreutz

Signature:  Date: 11/8/21

If application is being submitted by any person other than the legal owner(s) of the property, the applicant must have written authorization from the owner to submit application.

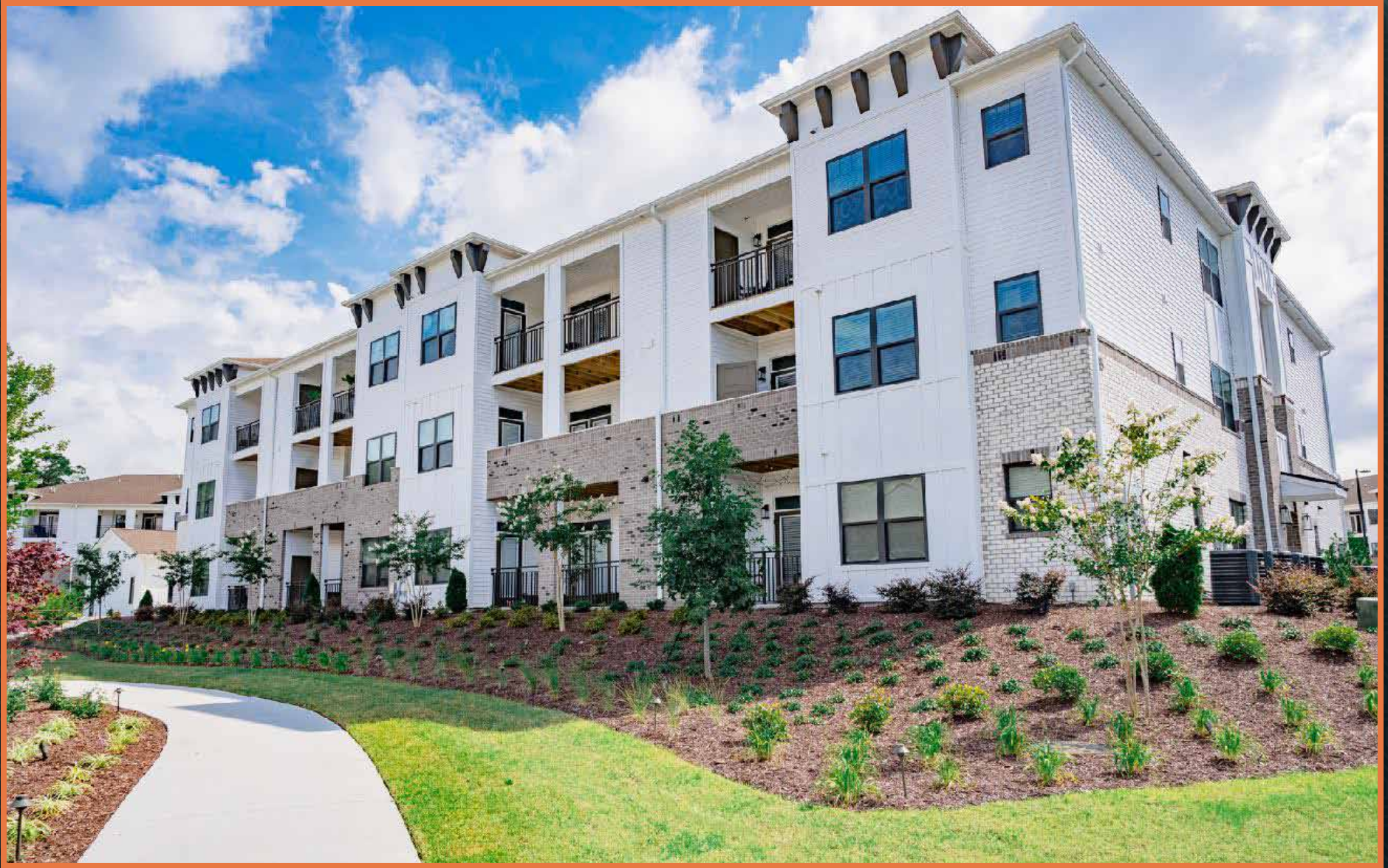
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# HAWTHORNS AT FRUITLAND PARK | SITE LOCATION



# HAWTHORNS AT FRUITLAND PARK | CONCEPT PHOTOS



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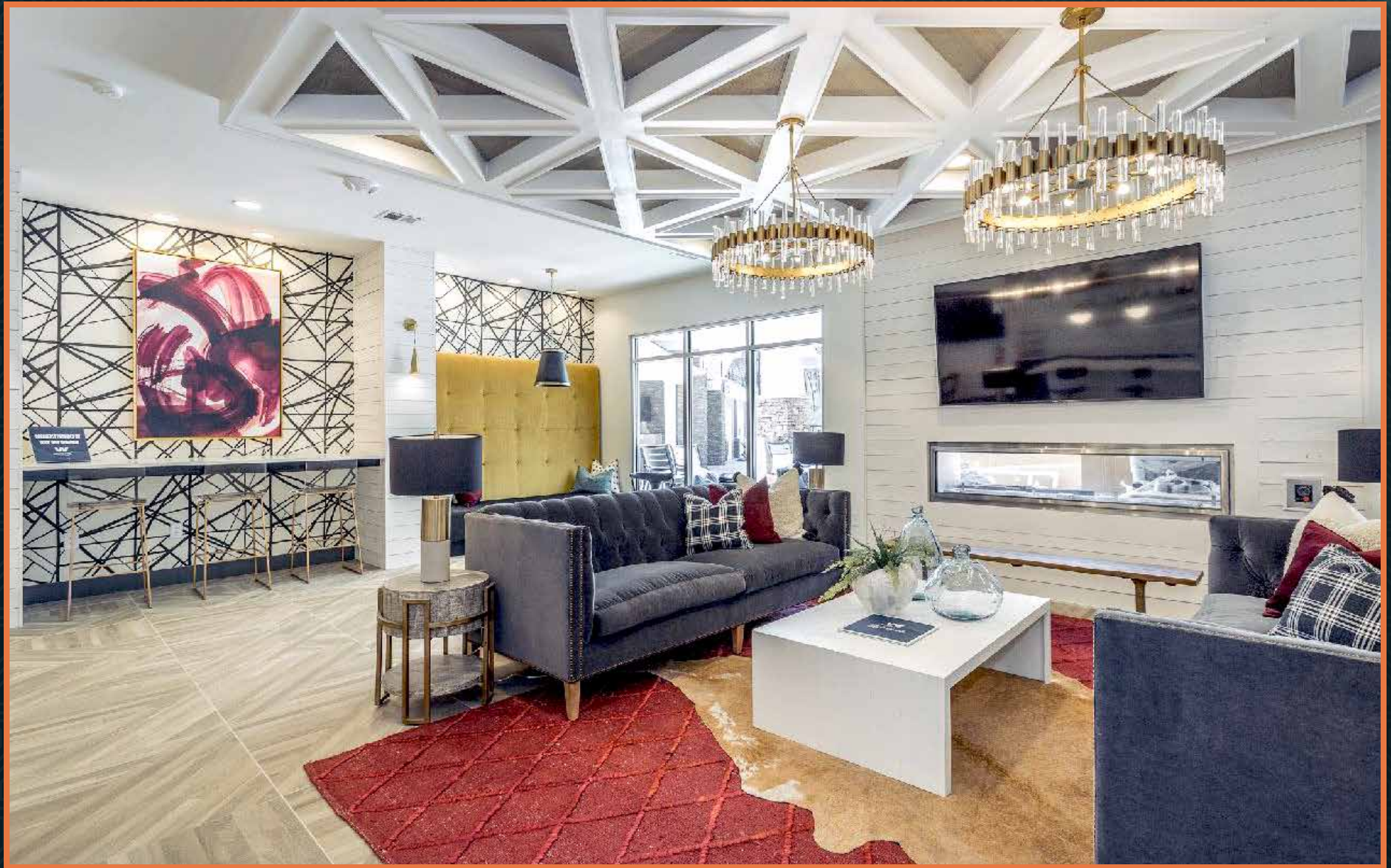
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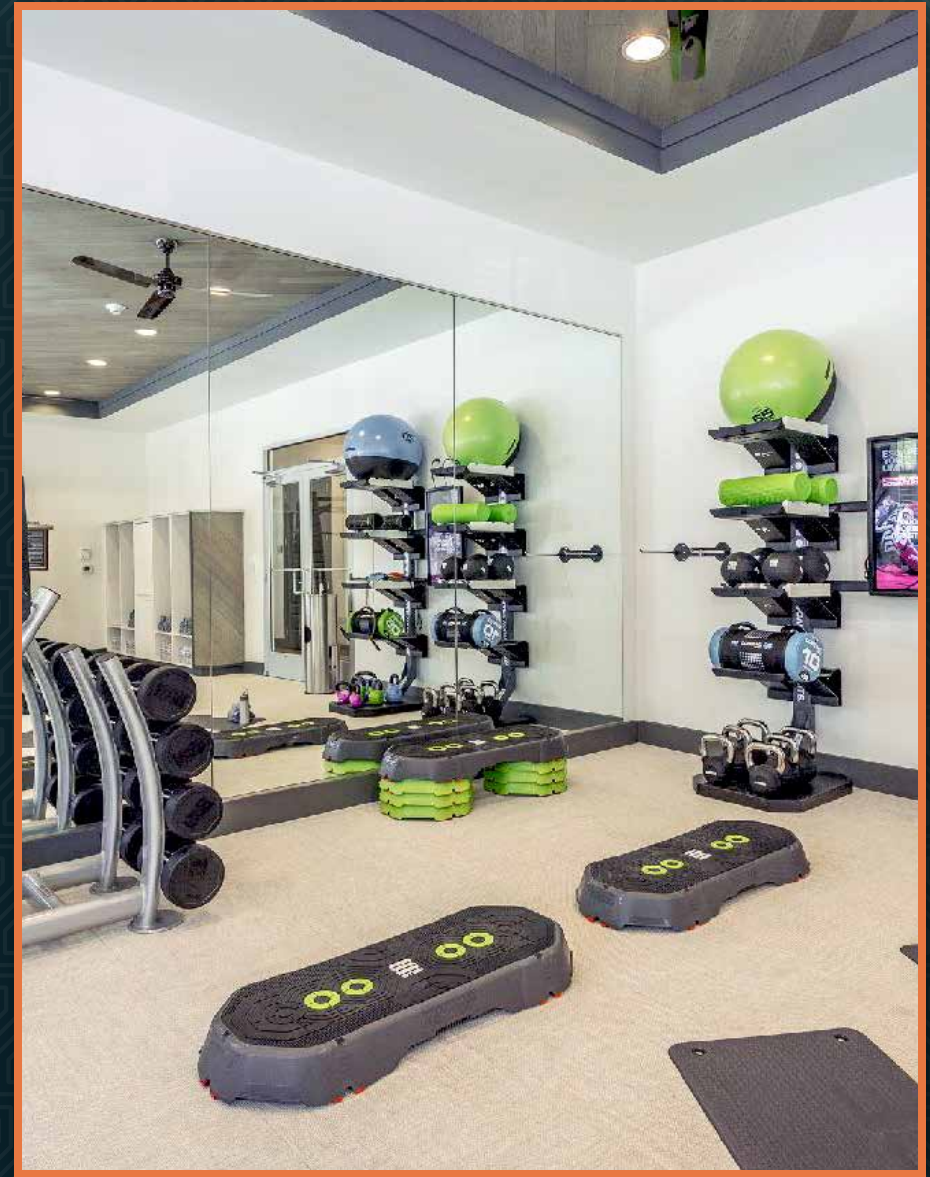




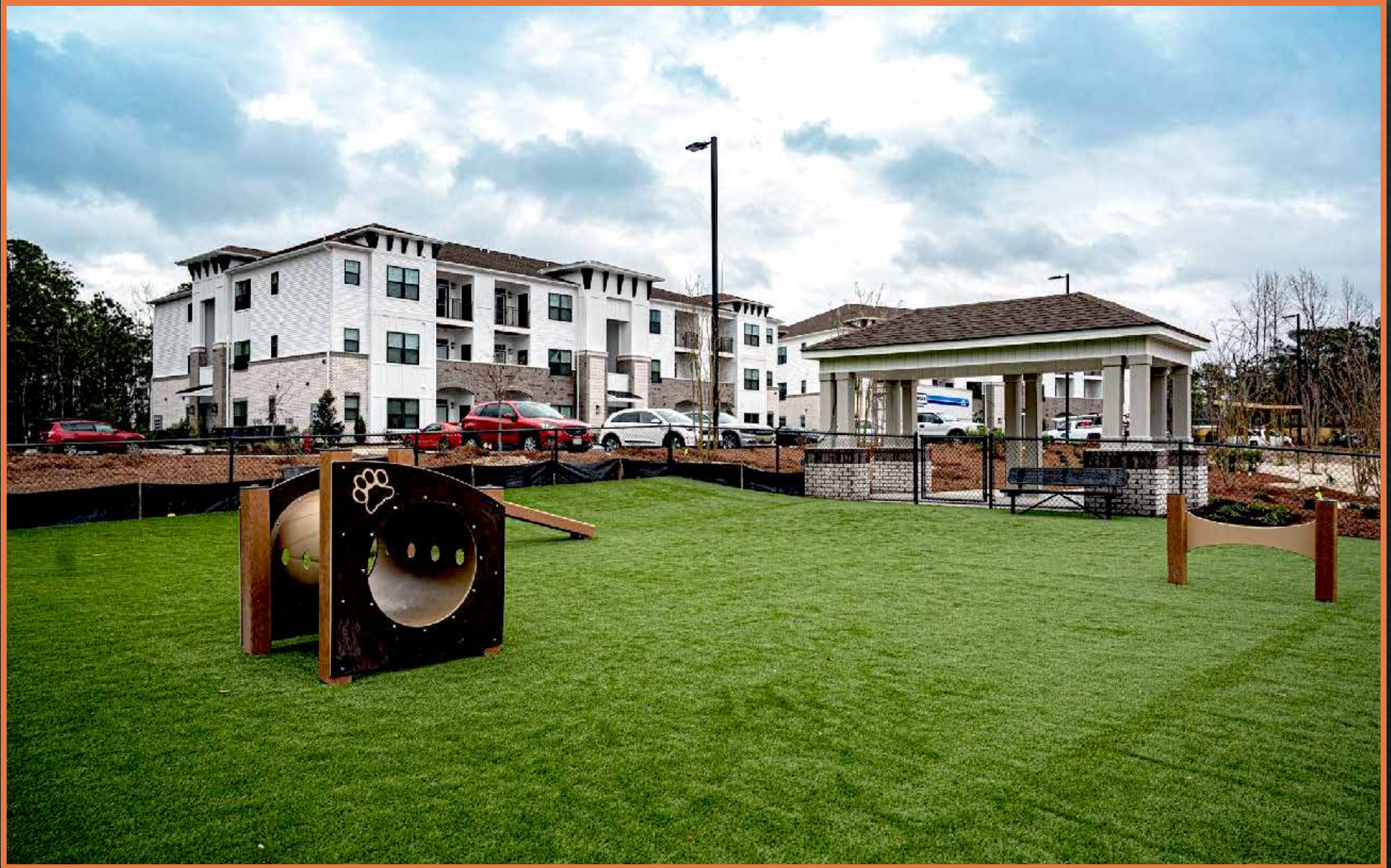
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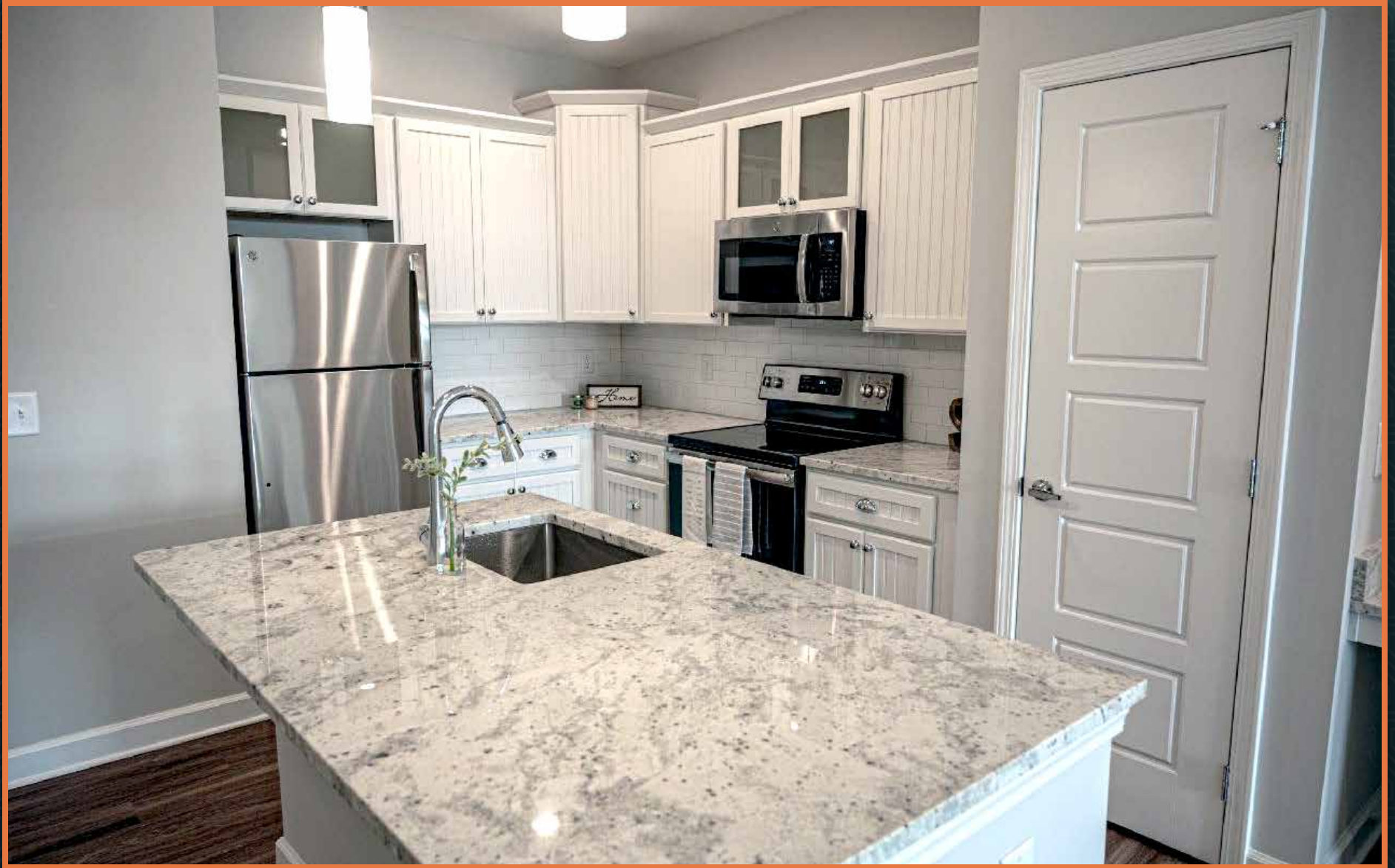
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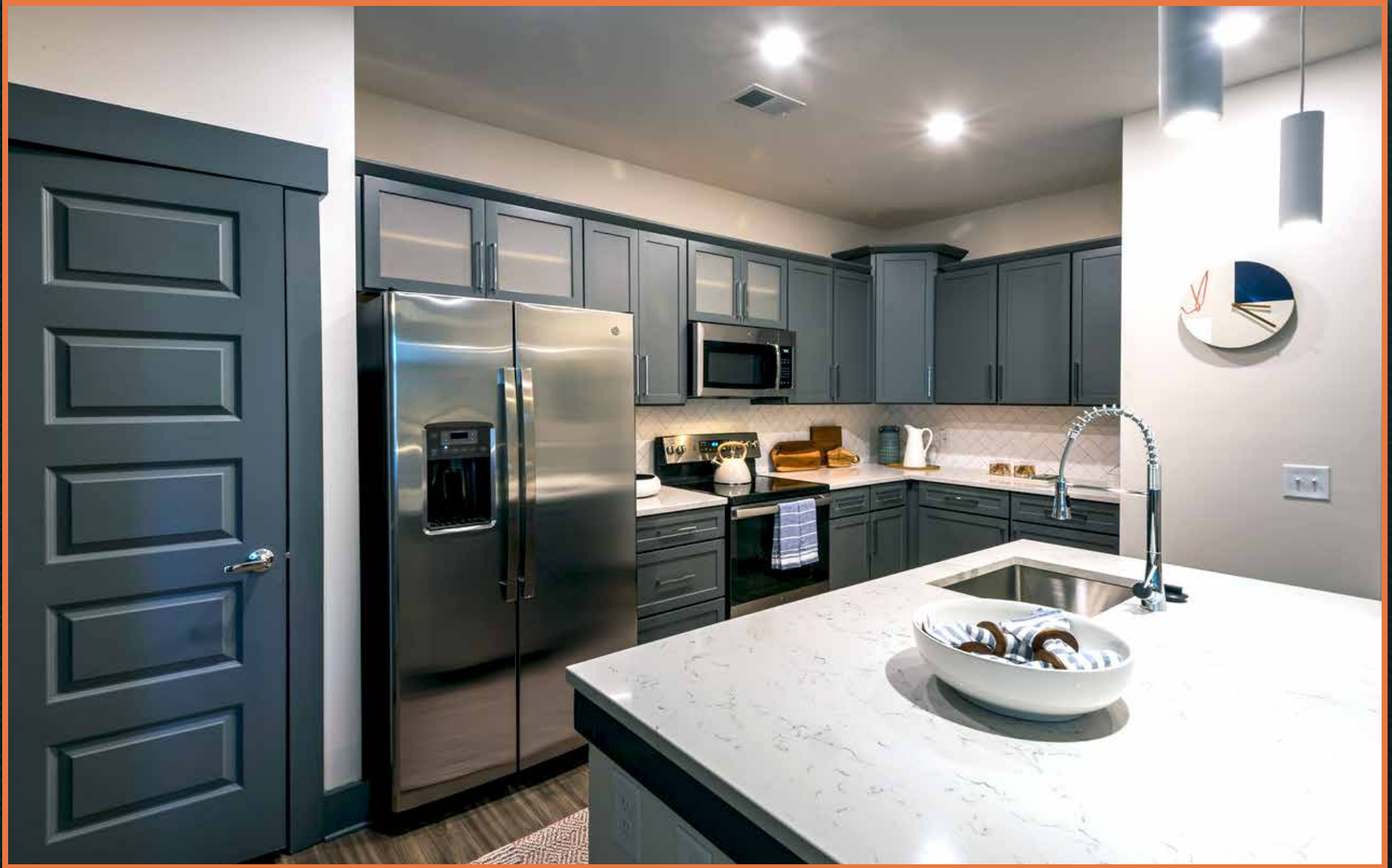
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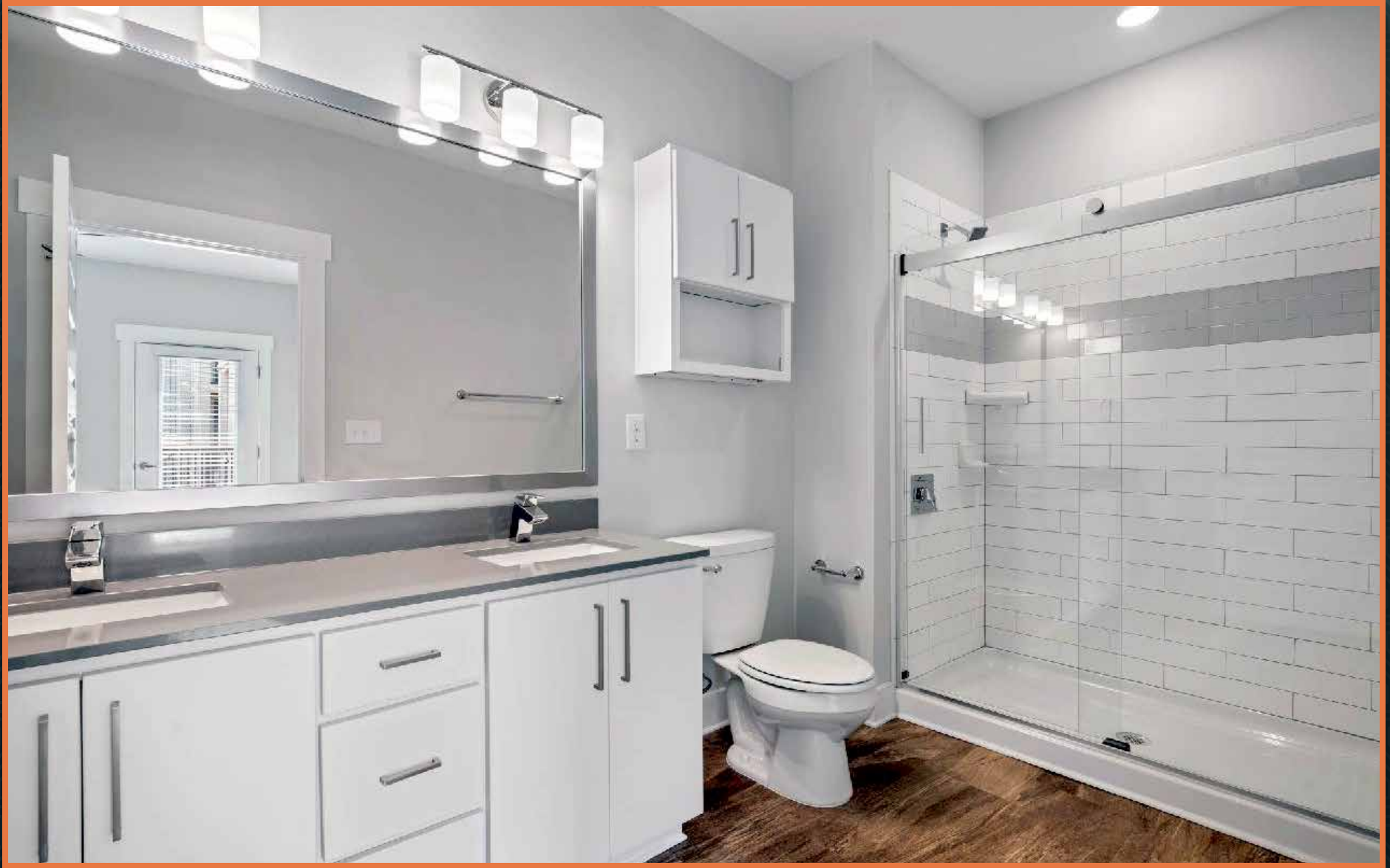
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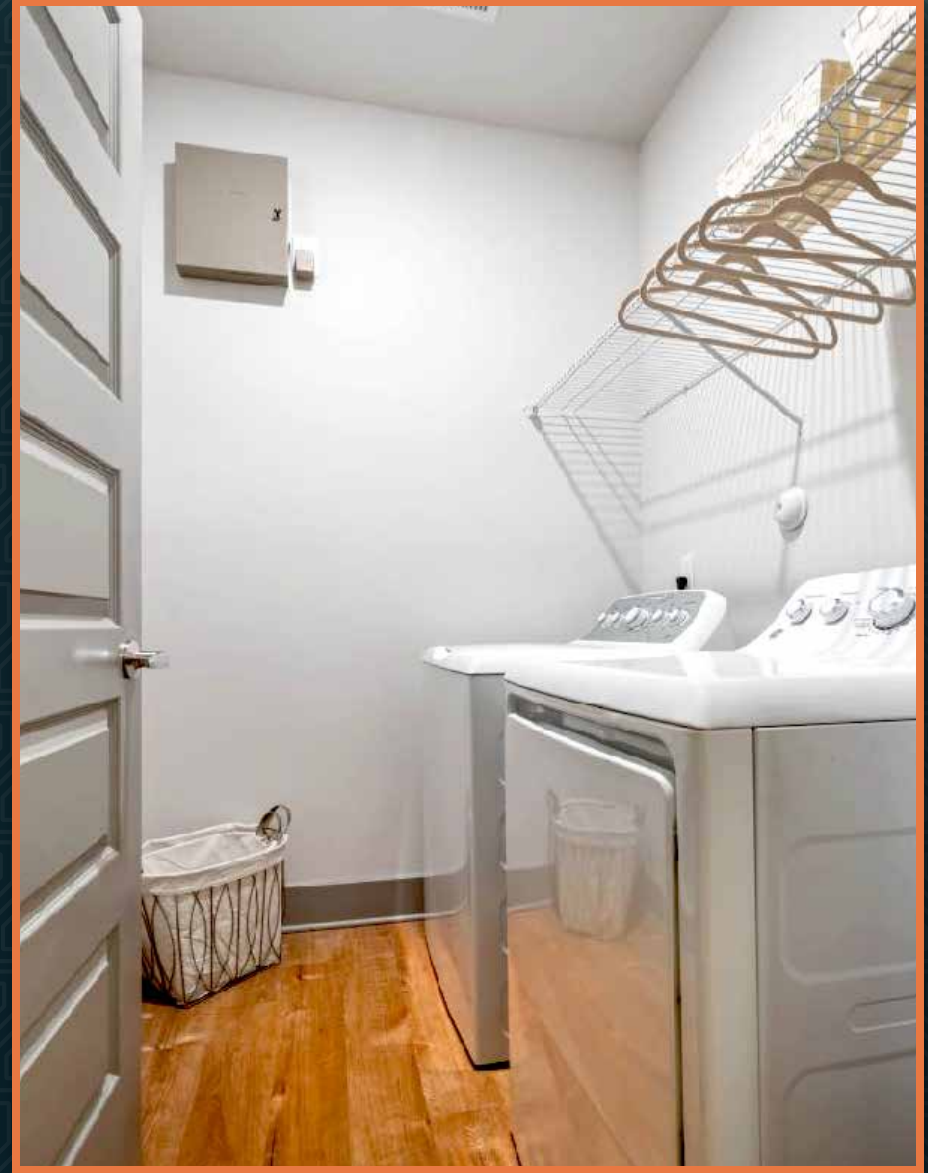
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# HAWTHORNS AT FRUITLAND PARK | CONCEPT PHOTOS



# HAWTHORNS AT FRUITLAND PARK | CONCEPT PHOTOS





**CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 9g**

**ITEM TITLE:** First Reading and Quasi-Judicial Public Hearing –  
Ordinance 2022-024 Rezoning/MUPUD 19.56 ± Acres  
– 305 CR 466A - MDA - Petitioner: T. D. Burke

**MEETING DATE:** November 10, 2022

**DATE SUBMITTED:** October 24, 2022

**SUBMITTED BY:** City Attorney/City Manager/Community Development  
Director

**BRIEF NARRATIVE:** Ordinance 2022-024 Rezoning/MUPUD 19.56 ± acres from C-2 and Lake County Agriculture to City of Fruitland Park Mixed-Use Planned Unit Development; properties located north of CR 466A at 305 CR 466-A approving a master development agreement for said property. Petitioner: T.D. Burke Owner, via the applicant, Jose Kreutz of Luxury Leased Homes USA, LLC, is requesting rezoning from C-2 and Lake County Agriculture to a Mixed Use Planned Development to allow for residential and commercial use/development. Development applications for annexation, small scale comp plan amendment, rezoning/MUPUD was approved at the November 3, 2022 Planning and Zoning Board meeting.

**FUNDS REQUIRED:** None

**ATTACHMENTS:** Proposed Ordinance 2022-024, master development agreement, maps, and justification letter. (See Agenda Item 9f. for development application, affidavit, October 14, 2022 staff report, conceptual plan with elevations, legal description and school concurrency).

**RECOMMENDATION:** Staff recommends approval of Ordinance 2022-024.

**ACTION:** Approve Ordinance 2022-024.

**ORDINANCE 2022-024**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, REZONING 19.56 ± ACRES OF PROPERTY FROM CITY OF FRUITLAND PARK C-2 AND LAKE COUNTY AGRICULTURE TO CITY OF FRUITLAND PARK MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) WITHIN THE CITY LIMITS OF FRUITLAND PARK FOR RESIDENTIAL AND COMMERCIAL USE; APPROVING A MASTER DEVELOPMENT AGREEMENT FOR THE PROPERTY; DIRECTING THE CITY MANAGER TO HAVE AMENDED THE ZONING MAP OF THE CITY OF FRUITLAND PARK; PROVIDING FOR SEVERABILITY AND SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, a petition has been submitted by Luxury Leased Homes, applicant on behalf of T. D. Burke, Owner, requesting that approximately 19.56 +/-acres of real property located north of CR-466A at 305 CR 466-A (the "Property") be rezoned from City of Fruitland Park C-2 and Lake County Agriculture to Mixed Use Planned Unit Development (MPUD) within the city limits of Fruitland Park; and

**WHEREAS**, the petition bears the signature of all applicable parties; and

**WHEREAS**, the required notice of the proposed rezoning has been properly published; and

**WHEREAS**, the City Commission reviewed said petition, the recommendations of the Planning and Zoning Board, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised;

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Fruitland Park, Florida, as follows:

Section 1. The following described property consisting of approximately 19.56 ± acres of land generally located north of CR 466-A and located at 305 CR 466-A shall hereafter be designated as MPUD, Mixed Use Planned Unit Development, as defined in the Fruitland Park Land Development Regulations. The property is more particularly described as set forth on **Exhibit "A"** and depicted on the map attached hereto as **Exhibit "B"**. The Property shall hereafter be developed according to Master Development Agreement attached hereto as **Exhibit "C"**, which includes, but is not limited to, the concept plans attached to the Master Development Agreement. An amendment to the Master Development Agreement shall not require an amendment to this MPUD zoning ordinance.

Section 2. That the City Manager, or designee, is hereby directed to have amended, altered, and implemented the official zoning maps of the City of Fruitland Park, Florida to include said designation consistent with this Ordinance.

Section 3. Severability. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 4. Scrivener’s Errors. Scrivener’s errors in the legal description may be corrected without a public hearing or at public meeting, by re-recording the original ordinance or a certified copy of the ordinance and attaching the correct legal description.

Section 5. Conflict. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. This Ordinance shall become effective immediately upon passage by the City Commission of the City of Fruitland Park.

**PASSED AND ORDAINED** in regular session of the City Commission of the City of Fruitland Park, Lake County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Chris Cheshire, Mayor  
City of Fruitland Park, Florida

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Esther Coulson, MMC, City Clerk

\_\_\_\_\_  
Anita Geraci-Carver, City Attorney

|                       |       |        |       |       |       |              |       |          |
|-----------------------|-------|--------|-------|-------|-------|--------------|-------|----------|
| Mayor Cheshire        | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Vice-Mayor Gunter     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Bell     | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner DeGrave  | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |
| Commissioner Mobilian | _____ | (Yes), | _____ | (No), | _____ | (Abstained), | _____ | (Absent) |

Passed First Reading \_\_\_\_\_  
Passed Second Reading \_\_\_\_\_

(SEAL)

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT A FOUND 4" X4" CONCRETE MONUMENT NO ID AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE NORTH 00°49'19" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,326.69 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°07'47" EAST ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,327.37 FEET TO THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 41.38 FEET TO INTERSECT THE NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) AS SHOWN ON THE LAKE COUNTY ROAD MAP BOOK 2, PAGE 118 AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE FOR 300.30 FEET TO THE SOUTHWEST CORNER OF THE NORTH PARCEL; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 984.70 FEET TO THE NORTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°08'29" EAST ALONG THE NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 663.12 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 983.33 FEET TO THE SOUTHEAST CORNER OF THE NORTH PARCEL; THENCE SOUTH 00°50'21" WEST ALONG SAID EAST LINE FOR 300.30 FEET TO INTERSECTION WITH THE AFORESAID NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) (SAID POINT BEING NORTH 00°50'21"E 42.88 FEET FROM THE SOUTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6) ; THENCE NORTH 89°15'33" WEST ALONG SAID NORTH RIGHT OF WAY FOR 663.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 852,037 SQUARE FEET OR 19.5601 ACRES, MORE OR LESS.



Sumter County  
Lake County

Site Location

VILLAGE HILLS DR

CATO RANCH RD

WALTERS PL

EMORY DR

MICRO RACE TRACK RD

EDMONDSON DR

TIMBERTOP LN

OLIVER LN

CR-466A

BECKER AVE

VASQUEZ AVE

ELLIOTT AVE

BRUSKO DR

CARVER CT

PARRISH PL

GANO WAY

HOPE PL

YODER DR

KHIRBATE CT

NITSEN LN

INCORVAIA WAY

PRIVETT DR

COMBS CT

BLISS WAY

BLACKS STOCKWAY

DRAKE DR

BRINSON LN

KRAMER CT

DELIK DR

HERO CT

MARKWARD DR

HAILEMARK PATH

KRANZLA W

JOHN LN

WILSEAN

MOYER LOOP

CYR CT

PAPE PL

WILSEA PL

DEWITTE CT

PRIVETT DR

COMBS CT

BLISS WAY

BLACKS STOCKWAY

DRAKE DR

BRINSON LN

KRAMER CT

MARKWARD DR

HAILEMARK PATH

KRANZLA W

JOHN LN

WILSEAN

MOYER LOOP

CYR CT

PRIVETT DR

COMBS CT

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BLACKS STOCKWAY

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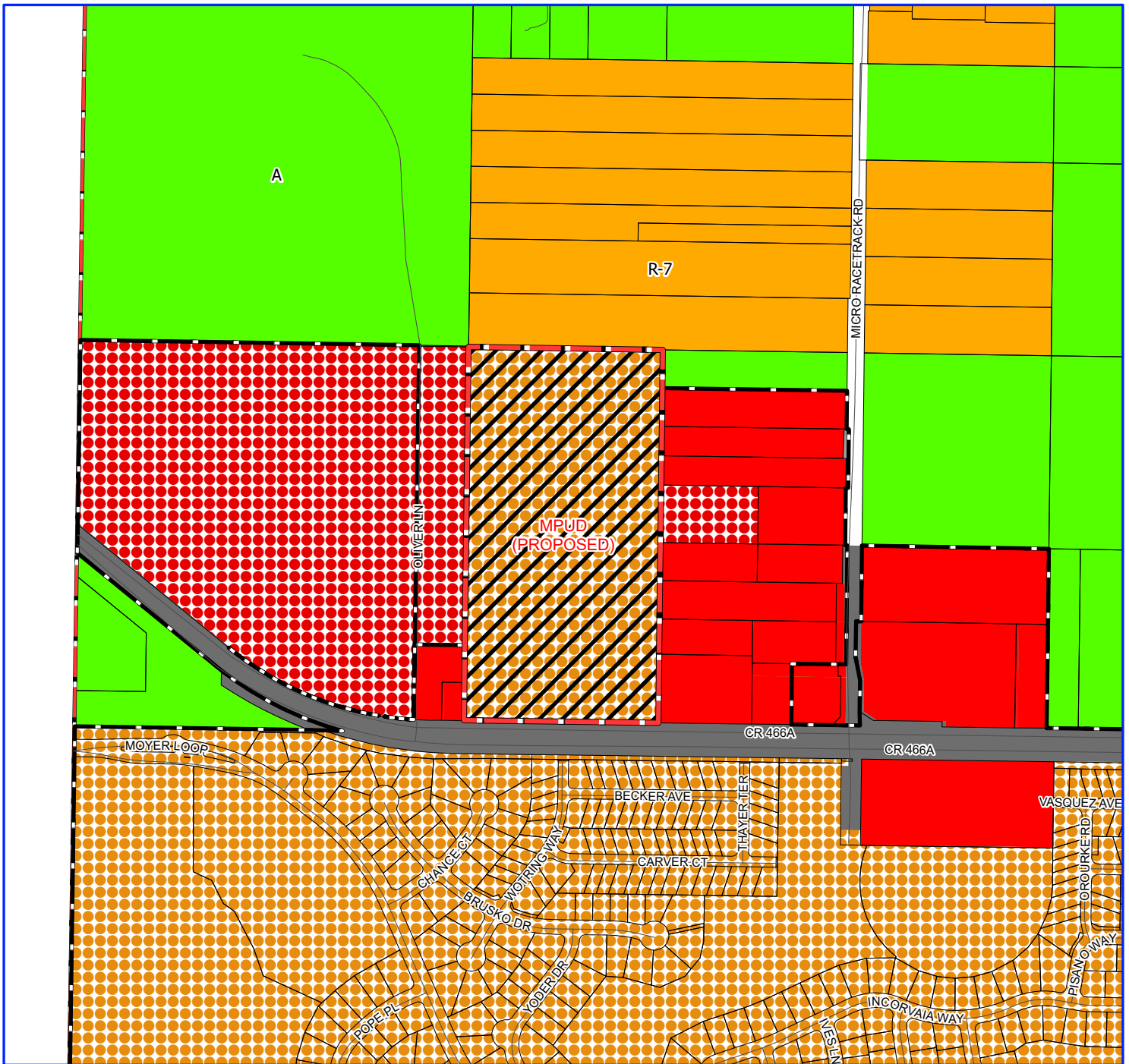
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**Legend**

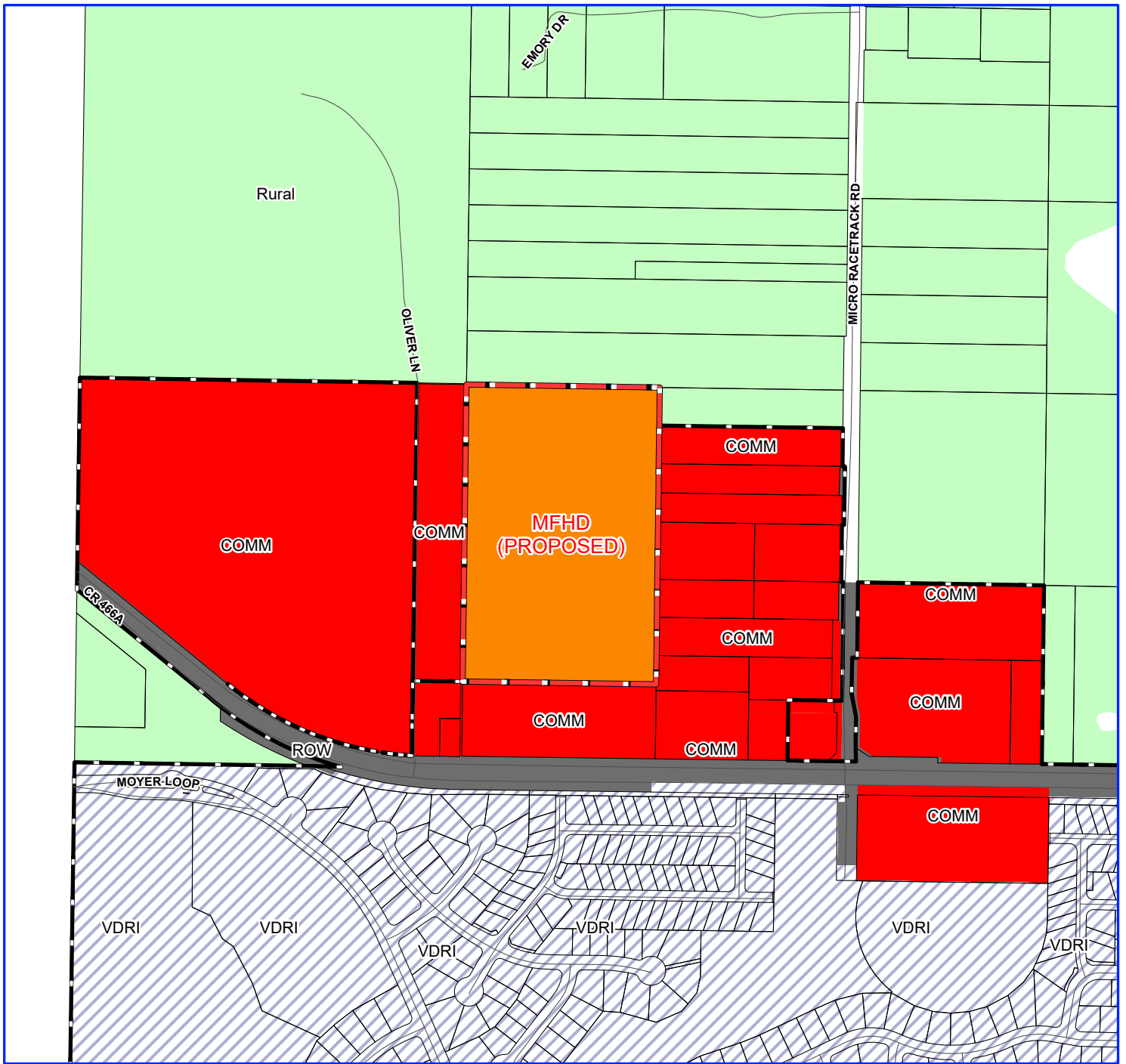
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|--------------------------------------|--|
| Site Boundary                        | PUD, Planned Unit Development                      |
| <b>Lake County Zoning</b>            | CPUD, Commercial Planned Unit Development District |
| Agriculture                          | ROW, Right-of-Way                                  |
| Residential                          | MPUD, Mixed Use PUD                                |
| <b>City of Fruitland Park Zoning</b> |  |
| C-2, General Commercial              |  |

1 inch = 500 feet


**City of Fruitland Park  
The Hawthornes**  
Lake County, Florida  
Proposed Zoning Map

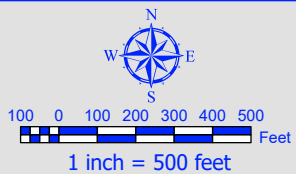
Project: 398-21-14  
File: Proposed Zoning  
Name: The Hawthornes  
PM: Sherie Lindh  
Date: October 6, 2022  
Created By: J. Wilson

**LPG Urban & Regional Planners, Inc.**  
1162 Camp Avenue, Mount Dora, Florida 32757  
Office: (352) 385-1940 / Fax: (352) 383-4824



**Legend**

- |   |  |
|---|--|
|  Site Boundary |  ROW, Transportation                      |
| Lake County Future Land Use   |  VDRI, The Villages of Fruitland Park DRI |
|  Rural         |  MFHD, Multiple Family/High Density       |
| City of Fruitland Park Future Land Use  |  COMM, Commercial                         |



**City of Fruitland Park  
The Hawthornes  
Lake County, Florida  
Proposed Future Land Use Map**

Project: 398-21-14  
File: The Hawthornes FLU  
Name: The Hawthornes  
PM: Sherie Lindh  
Date: October 5, 2022  
Created By: J.Wilson



LEGAL DESCRIPTION – OVERALL PARCEL- AS SURVEYED

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4" X4" CONCRETE MONUMENT NO ID AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE NORTH 00°49'19" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,326.69 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°07'47" EAST ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,327.37 FEET TO THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 41.38 FEET TO INTERSECT THE NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) AS SHOWN ON THE LAKE COUNTY ROAD MAP BOOK 2, PAGE 118 AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE FOR 300.30 FEET TO THE SOUTHWEST CORNER OF THE NORTH PARCEL; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 984.70 FEET TO THE NORTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°08'29" EAST ALONG THE NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 663.12 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 983.33 FEET TO THE SOUTHEAST CORNER OF THE NORTH PARCEL; THENCE SOUTH 00°50'21" WEST ALONG SAID EAST LINE FOR 300.30 FEET TO INTERSECTION WITH THE AFORESAID NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) (SAID POINT BEING NORTH 00°50'21"E 42.88 FEET FROM THE SOUTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6) ; THENCE NORTH 89°15'33" WEST ALONG SAID NORTH RIGHT OF WAY FOR 663.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 852,037 SQUARE FEET OR 19.5601 ACRES, MORE OR LESS.



**Record and Return to:**  
**City of Fruitland Park**  
**Attn: City Clerk**  
**506 W. Berckman Street**  
**Fruitland Park, Florida 34731**

## **MASTER DEVELOPMENT AGREEMENT**

**THIS AGREEMENT** is entered into and made as of the \_\_\_\_th day of \_\_\_\_\_, 2022, between the **CITY OF FRUITLAND PARK, FLORIDA, a Florida municipal corporation**, (hereinafter referred to as the “City”), and **T.D. BURKE** (hereinafter referred to as the “Owner”).

### **RECITALS**

1. The Owner desires to rezone approximately 19.56 ± acres of property within the City of Fruitland Park, described and depicted as set forth on **Exhibit “A”** attached to and incorporated in this Agreement (hereafter referred to as the “Property”).
2. The Property is currently located within the City of Fruitland Park and is currently zoned Lake County Agriculture and City General Commercial (C-2) with a future land use designation on the City of Fruitland Park Future Land Use Map of “Commercial High Intensity” and “Multi-Family High Density.”
3. Owner has filed applications for rezoning for the Property as a Mixed Use Planned Unit Development.
4. Owner represents that it is the sole legal owner of the Property and that it has the full power and authority to make, deliver, enter into, and perform pursuant to the terms and conditions of this Agreement and has taken all necessary action to authorize the execution, delivery, and performance of the terms and conditions of this Agreement.
5. The City of Fruitland Park has determined that the rezoning of the Property and the proposal for its development presents, among other things, an opportunity for the City to secure quality planning and growth, protection of the environment, and a strengthened and revitalized tax base.
6. Owner will fund certain public improvements and infrastructure to facilitate the development of the Property.
7. The Property is within the City’s Chapter 180, Florida Statutes, utility district, and Owner has requested and City desires to provide water and sewer as well as other municipal services to the Property.

**ACCORDINGLY**, in consideration of the mutual benefits and the public interest and other good and

valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**Section 1. Recitals.** The above recitals are true and correct, are hereby incorporated herein by reference, and form a material part of this Agreement. All exhibits to this Agreement are hereby deemed a part thereof.

**Section 2. Conditions Precedent.** Owner has filed an application for rezoning for the Property. It is understood and agreed to by the City and the Owner that this Agreement shall not be binding or enforceable as to any party unless and until: a) the City duly adopts the Agreement and adopts an ordinance rezoning the Property. The parties hereto understand and acknowledge that the City is in no way bound to rezone the Property. The City shall have the full and complete right to approve or deny the application for rezoning.

**Section 3. Land Use/Development.** Development of the Property shall be substantially consistent with the "PUD Conceptual Plan" prepared by Upham, Inc., dated October 13, 2022, and attached as **Composite Exhibit "B"** (which may be referred to as the "Plan" or the "PUD Master Plan" or "Development Plan"). The project shall be developed in accordance with the Permitted Uses set forth below. All development shall be consistent with City's "PUD" (Planned Unit Development) zoning district and, subject to City approval. As set forth further below, all land use issues addressed herein must be adopted by City through its regular procedures before being effective.

**Section 4. Permitted Uses.** Permitted Uses shall include:

- a. Multi-family apartments not to exceed 240 units.
- b. Recreation amenities.
- c. Day Care Center
- d. Bank
- e. Bars and Lounges
- f. Health and Exercise clubs
- g. Hotel
- h. Medical Office/Clinic
- i. Offices
- j. Restaurants
- k. Veterinary Clinic
- l. Retail Sales and Services

**Section 5. Development Standards.** Development Standards shall be as follows:

- a. Maximum Impervious Surface Ratio (ISR) 70%
- b. Minimum Open Space 25%, which may include all buffers, recreation and other pervious area not located within platted road right of way.
- c. Maximum Building Height of 45', measured to the mean height of hip or gabled roofs.
- d. Minimum distance between multi-family buildings shall be thirty-five feet (35') measured from building wall to building wall.
- e. Interior buildings shall have a setback of ten feet (10') from the edge of pavement (travel lane).
- f. Minimum Setback requirements, as measured from the PUD perimeter property lines shall be:

- i. North: Twenty-five feet (25')
  - ii. South: Fifty feet (50') from the right of way of CR 466-A
  - iii. East: Twenty-five feet (25')
  - iv. West: Twenty-five feet (25')
- g. Open space shall not be less than twenty-five (25) percent of the total property area. Stormwater ponds may not be included as open space unless designed as an amenity.
- h. Parking: The Owner will be required to meet the parking requirements of the Fruitland Park Land Development Regulations.
- i. Type "C" Landscape buffers of twenty-five feet (25') shall be provided along the PUD perimeter property boundaries.

**Section 6. Commercial Design Standards.**

All non-residential development shall meet the design standards of Chapter 154, Section 154.050 through Section 154.070 (inclusive).

**Section 7. Multi-Family Design Standards.** Design Standards shall be as follows:

- a. Multi-family development shall meet the R-15 MFHDR zoning development standards.
- b. Architectural features - All buildings shall utilize at least three of the following design features to provide visual relief along all elevations of the multi-family units. Front doors shall incorporate the following decorative elements: raised decorative panels, decorative glass panels or panes, decorative handles, etc. Designs may vary throughout the development.
  - 1) Dormers
  - 2) Gables
  - 3) Recessed or raised entries
  - 4) Covered porch entries
  - 5) Cupolas
  - 6) Pillars or decorative posts
  - 7) Bay window (minimum 12 inch projections)
  - 8) Eaves (minimum 6-inch projections)
  - 9) Front windows with arched glass tops and minimum 4-inch trim
  - 10) Metal roofs
  - 11) Decorative Corbels and Brackets
- c. Building Materials - Exterior building materials contribute significantly to the visual impact of a building on the community. These materials shall be well designed and integrated into a comprehensive design style for the project. The total exterior wall area of each building elevation shall be composed of one of the following:

- i. The exterior wall area may be any type of lap siding and/or stucco, including a “cementitious” lap siding. (A “cementitious” lap siding product is defined as a manufactured strip siding composed of cement-based materials rather than wood fiber-based or plastic-based materials. For example, Masonite or vinyl lap siding would not be allowed under this option.) The exterior may include full width or cast brick or stone.
  - ii. All textured stucco, provided there are unique design features such as recessed garages, tile or metal roofs, arched windows etc. in the elevations of the buildings or the buildings are all brick stucco. Unique design features shall be reviewed by the Community Development Director for compliance.
- c. Details, such as, brackets, corbels, decorative panels, may be made from alternative materials, such foam with a hard shell finish.
- d. Buildings shall have landscape areas planted with trees, shrubs or groundcovers, other than sod, around the building as follows:
  - i. Building Perimeter landscaping. A minimum three (3) foot wide landscape area, with an average of five (5) feet or more, around a minimum of forty (40) percent of the total building perimeter and within twenty-five (25) feet of the building walls.
  - ii. *Minimum planting requirement.* One (1) canopy tree or three (3) understory trees, and twenty-eight (28) shrubs shall be required for every three hundred and fifty (350) feet of planting area in c. 1) above. Trees installed for any other requirement of this subsection c. may be credited towards this requirement if in the required location.

**Section 8. Development Phasing.** The proposed project may be constructed in phases in accordance with the Planned Unit Development Master Plan (attached as part of these conditions). Changes to the Planned Unit Development Master Plan, other than those conditions described in this agreement, shall be revised in accordance with the Planned Unit Development review process. If such changes are consistent with this Master Development Agreement, the amendment to the Planned Unit Development Master Plan will be processed as a Minor Development under LDC section 160.040.

**Section 9. Site Access and Transportation Improvements.** Vehicular access to the project site shall be provided by a minimum of one access point on CR 466-A. The access points shall be reviewed during the development review process.

- a. The Owner shall provide all necessary improvements within and adjacent to the development as required by Lake County and City of Fruitland Park.
- b. All roads within the development shall be designed and constructed by the developer to meet the City of Fruitland Park requirements. Drive aisles within parking areas shall not be required to be constructed to City street standards.
- c. Sidewalks shall be provided on both sides of the local internal roads and shall provide cross connections to all recreation and residential areas. Internal road rights-of-ways shall be of sufficient width to contain the sidewalks. All sidewalks shall be constructed in accordance with City of Fruitland Park Codes.
- d. The City of Fruitland Park will not be responsible for the maintenance or repair of any of the roads or transportation improvements. The Owner shall establish an

appropriate legal entity that will be responsible to pay the cost and perform the services to maintain the roads and transportation improvements, inclusive of all sidewalks.

- e. A traffic/transportation study shall be submitted prior to preliminary plan approval for review and determination of any necessary access improvements if required by Lake County. Said improvements will be the responsibility of the Owner.
- f. At such time that traffic signals are warranted at the proposed project entrance, the Owner shall pay their pro rata share of the cost of the signal(s) as determined by Lake County or the City.

**Section 10. Lighting.** All exterior lighting shall be arranged to reflect light away from adjacent properties to the greatest extent possible while providing lighting adequate to ensure safety on road right of way and parking areas.

**Section 11. Water, Wastewater, and Reuse Water.** Subject to the terms herein, Owner and their successors and assigns agree to obtain water, reuse water, irrigation water, and wastewater service (hereafter, "Utilities") exclusively through purchase from City. Owner covenants and warrants to City that it will not engage in the business of providing such Utilities to the Property or within City's F.S. Chapter 180 utility district. Notwithstanding the foregoing, private wells for irrigation purposes will be allowed within the Property so long as such wells are approved and permitted by the St. Johns River Water Management District (the "District") and comply with the rules and regulations of the District. Owner shall construct, at Owner's expense, all on-site utility facilities (e.g. lift stations and lines) as well as pay for the extension of facilities from City's current point of connection. Owner shall also construct, at Owner's expense, "dry" utility lines for reclaimed water purposes. Except as otherwise provided herein, all such improvements must be constructed to City requirements and transferred to City as a contribution in aid of construction. Owner shall own and maintain all onsite water and wastewater improvements including any lift station(s) up to the point of connection at the property line for the wastewater improvements and up to the point of connection to the City water meter for the water utility improvements. Owner shall, at its expense, install fire hydrant(s) and extend utility line(s) as required by the Settlement Agreement entered into between the City of Fruitland Park and Owner in Lake County Case No. 2019-CA-001894.

**Section 12. Impact Fees.** Owner shall be required to pay impact fees as established by City from time to time, including water and wastewater impact fees. The amount to be paid shall be the adopted impact fee rate at the time the building permit is issued. Owner agrees to pay all impact fees and any impact fees adopted after the execution of this Agreement as building permits are issued. If impact fees increase from the time they are paid until the building permit is issued, Owner shall pay the incremental increased amount at the time building permits are issued.

Prepayment of utility impact fees and acceptance by City of such fees shall reserve capacity. No capacity is reserved until or unless such fees have been paid pursuant to an agreement with City. Owner agrees and understands that no capacity has been reserved and that Owner assumes the risk that capacity will be available. Accordingly, if capacity is available at the time of site plan and City is willing to allocate such capacity to Owner, Owner shall enter into a reservation agreement and any other utility agreements or easements related to the Property as requested by City from time to time.

**Section 13. Easements.** Owner shall provide the City such easements or right of way in form acceptable to the City Attorney, as the City deems necessary for the installation and maintenance of roads, sidewalks, bikeways, street lighting or utility services, including but not limited to sewer, water, drainage and reclaimed water services.

**Section 14. Landscaping/Buffers.** Developer has reviewed City's Land Development Regulations relating to landscaping and agrees to comply with such regulations. Owner shall install and maintain a twenty-five foot (25') landscape buffer along the PUD perimeter property boundaries. All landscaping and tree protection shall comply with Chapter 164 of the City of Fruitland Park Land Development Regulations.

Owner shall, at its sole expense, install underground irrigation systems on all common areas of the Property, as well as exercise any other measures reasonably necessary to ensure the long-term maintenance of the landscaping.

Owner shall design and construct, at its sole expense, the interior landscaped areas and islands within the parking areas of the Property in accordance with all applicable City of Fruitland Park Land Development Regulations. Owner shall maintain such areas.

Owner acknowledges City's goal of achieving a greater level of tree preservation within the City. In aid of such goal, Owner agrees to comply with all applicable City of Fruitland Park Land Development Regulations pertaining to tree removal and replacement.

**Section 15. Stormwater Management.** Owner agrees to provide at Owner's expense a comprehensive stormwater management system consistent with all regulatory requirements of the City and the St. John's River Water Management District. Impacts to flood plains are allowed in accordance with the Water Management District procedures for compensating storage and will be based on the 100-year floodplain established by Lake County.

**Section 16. Other Municipal Facilities/Services.** The City hereby agrees to provide, either directly or through its franchisees or third party providers, police and fire protection, emergency medical services, and solid waste collection, disposal, and recycling services to the Property under the same terms and conditions and in the same manner as are afforded to all other commercial property owners within the City.

**Section 17. Environmental Considerations.** The Owner agrees to comply with all federal, state, county, and city laws, rules and regulations regarding any environmental issues affecting the Property.

**Section 18. Signage.** Owner shall submit a master sign plan as a component of the final site plan (i.e., construction plan) application for the Property. Such plan shall be in compliance with all applicable regulations contained within the City of Fruitland Park Land Development Regulations, unless City grants a waiver or variance pursuant to the City's Land Development Regulations. Alternatively, the Owner, in the Owner's discretion, may apply to amend the PUD to incorporate a Master Signage Plan at the time that the Owner desires to install signage at the development.

**Section 19. Title Opinion.** Owner shall provide to City, in advance of the City's execution of this Agreement, a title opinion of an attorney licensed in the State of Florida, or a certification by an abstractor or title company authorized to do business in the State of Florida, showing marketable title to

the Property to be in the name of the Owner and showing all liens, mortgages, and other encumbrances not satisfied or released of record.

**Section 20. Compliance with City Laws and Regulations.** Except as expressly modified herein, all development of the Property shall be subject to compliance with the City Land Development Regulations and City Code provisions, as amended, as well as regulations of county, state, local, and federal agencies. All improvements and infrastructure shall be constructed to City standards.

**Section 21. Due Diligence.**

The City and Owner further agree that they shall commence all reasonable actions necessary to fulfill their obligations hereunder and shall diligently pursue the same throughout the existence of this Agreement. The City shall further provide all other municipal services to the Property as are needed by Owner from time to time in accordance with the City's applicable policies for the provision of said services.

**Section 22. Enforcement/Effectiveness.** A default by either party under this Agreement shall entitle the other party to all remedies available at law. This is a non-statutory development agreement which is not subject to or enacted pursuant to the provisions of Sections 163.3220 – 163.3243, *Florida Statutes*.

**Section 23. Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Florida and venue for any action hereunder shall be in the Circuit Court of Lake County, Florida.

**Section 24. Binding Effect; Assignability.** This Agreement, once effective, shall be binding upon and enforceable by and against the parties hereto and their successors in interest and/or assigns. This Agreement shall be assignable by the Owner to successive owners. Owner shall, however, provide written notice to the City of any and all such assignees. The rights and obligations set forth in this Agreement shall run with the land and be binding on all successors and/or assignees. Owner consents to the placement of a claim of lien on the Property upon default in payment of any obligation herein without precluding any other remedies of City. The parties hereby covenant that they will enforce this Agreement and that it is a legal, valid, and binding agreement.

**Section 25. Waiver; Remedies.** No failure or delay on the part of either party in exercising any right, power, or privilege hereunder will operate as a waiver thereof, nor will any waiver on the part of either party or any right, power, or privilege hereunder operate as a waiver of any other right, power, privilege hereunder, nor will any single or partial exercise of any right, power, or privilege hereunder preclude any other further exercise thereof or the exercise of any other right, power, or privilege hereunder.

**Section 26. Exhibits.** All exhibits attached hereto are hereby incorporated in and made a part of this Agreement as if set forth in full herein.

**Section 27. Notice.** Any notice to be given shall be in writing and shall be sent by certified mail, return receipt requested, to the party being noticed at the following addresses or such other address as the parties shall provide from time to time:

|             |  |
|-------------|--|
| As to City: | City Manager<br>City of Fruitland Park |
|-------------|--|

|              |  |
|--------------|--|
|              | 506 W. Berckman Street<br>Fruitland Park, Florida 34731<br>352-360-6727 Telephone  |
| Copy to:     | Chris Cheshire, City Mayor<br>City of Fruitland Park<br>506 W. Berckman Street<br>Fruitland Park, Florida 34731<br>352-360-6727 Telephone<br><br>Anita Geraci-Carver<br>Law Office of Anita Geraci-Carver, P.A.<br>1560 Bloxam Avenue<br>Clermont, Florida 34711<br>352-243-2801 Telephone<br>352-243-2768 Facsimile |
| As to Owner: | T.D. Burke<br>P.O. Box 816<br>Fruitland Park, FL 34731-0816  |
| Copy to:     | Jose Kreutz<br>Luxury Leased Homes USA, LLC<br>333 N. Alabama Street, Suite 350<br>Indianapolis, IN 46204  |

**Section 28. Entire Agreement.** This Agreement sets forth all of the promises, covenants, agreements, conditions, and understandings between the parties hereto, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied, oral or written, except as herein contained. However, the failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve Owner from complying with the law governing said permitting requirements, conditions, terms or restrictions.

**Section 29. Term of Agreement.** The term of this Agreement shall commence on the date this Agreement is executed by both the City and Owner, or the effective date of the annexation of the Property, whichever occurs later, and shall terminate twenty (20) years thereafter; provided, however, that the term of this Agreement may be extended by mutual consent of the City and the Owner, subject to a public hearing.

**Section 30. Amendment.** Amendments to the provisions of this Agreement shall be made by the parties only in writing by formal amendment.

**Section 31. Severability.** If any part of this Developer’s Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not effect the other parts of this Developer’s Agreement, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be effected. To that end, this Developer’s Agreement is declared severable.



**IN WITNESS WHEREOF**, the Owner and the City have executed this Agreement as of the day and year first above written.

**SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:**

**OWNER:**

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
T.D. Burke

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Name

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by [ ] physical presence or [ ] online notarization this \_\_\_\_ day of \_\_\_\_\_ by T.D. Burke, who is personally known to me or who have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
Notary Public - State of Florida  
Commission No \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

ACCEPTED BY THE CITY OF FRUITLAND PARK

Approved as to form and  
Legality for use and reliance  
by the City of Fruitland Park

By: \_\_\_\_\_  
Chris Cheshire, Mayor

Date: \_\_\_\_\_

\_\_\_\_\_  
Anita Geraci-Carver  
City Attorney

ATTEST: \_\_\_\_\_  
Esther B. Coulson  
City Clerk

STATE OF FLORIDA  
COUNTY OF LAKE

The foregoing instrument was acknowledged before me by  physical present or  online notarization this \_\_\_\_\_ day of \_\_\_\_\_ by Chris Cheshire, Mayor of the City of Fruitland Park, a Florida municipal corporation on behalf of the corporation and Esther B. Coulson, City Clerk of the City of Fruitland Park, Florida, on behalf of the corporation, who are  personally known to be me or produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
Notary Public - State of Florida  
Commission No \_\_\_\_\_

My Commission Expires \_\_\_\_\_

**EXHIBIT "A"**  
LEGAL DESCRIPTION

LEGAL DESCRIPTION – OVERALL PARCEL- AS SURVEYED

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT A FOUND 4" X4" CONCRETE MONUMENT NO ID AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE NORTH 00°49'19" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,326.69 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°07'47" EAST ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,327.37 FEET TO THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 41.38 FEET TO INTERSECT THE NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) AS SHOWN ON THE LAKE COUNTY ROAD MAP BOOK 2, PAGE 118 AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE FOR 300.30 FEET TO THE SOUTHWEST CORNER OF THE NORTH PARCEL; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 984.70 FEET TO THE NORTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°08'29" EAST ALONG THE NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 663.12 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 983.33 FEET TO THE SOUTHEAST CORNER OF THE NORTH PARCEL; THENCE SOUTH 00°50'21" WEST ALONG SAID EAST LINE FOR 300.30 FEET TO INTERSECTION WITH THE AFORESAID NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) (SAID POINT BEING NORTH 00°50'21" E 42.88 FEET FROM THE SOUTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6); THENCE NORTH 89°15'33" WEST ALONG SAID NORTH RIGHT OF WAY FOR 663.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 852,037 SQUARE FEET OR 19.5601 ACRES, MORE OR LESS.

**COMPOSITE EXHIBIT "B"**

**Exhibit "C"**

**CITY OF FRUITLAND PARK**  
**AGENDA ITEM SUMMARY SHEET**  
Item Number: 9h

**ITEM TITLE:** First Reading and Quasi-Judicial Public Hearing – Ordinance 2022-025 – Boundary Amendment – CR 466-A, East of Oliver Lane and West of Micro Racetrack Road – Petitioner: T. D. Burke

**MEETING DATE:** November 10, 2022

**DATE SUBMITTED:** October 24, 2022

**SUBMITTED BY:** City Attorney/City Manager/Community Development Director

f

**BRIEF NARRATIVE:** Ordinance 2022-025 – Boundary Amendment – CR 466-A, East of Oliver Lane and West of Micro Racetrack Road – Petitioner: T. D. Burke

Owner, via the applicant Jose Kreutz of Luxury Leased Homes USA, LLC, is requesting annexation of 15± acres (alt key 3884325) to add to the existing Burke’s BBQ parcel (1699649) to allow construction of a mixed use 240 multi-family apartment complex. The subject project was approved at the November 3, 2022 Planning and Zoning Board meeting.

**FUNDS REQUIRED:** None

**ATTACHMENTS:** Proposed Ordinance 2022-025, master development agreement, maps, and justification letter. (See Agenda Item 9f. for development application, affidavit, October 14, 2022 staff report, conceptual plan with elevations, legal description and school concurrency).

**RECOMMENDATION:** Staff recommends approval of Ordinance 2022-025.

**ACTION:** Approve Ordinance 2022-025.

**ORDINANCE 2022-025**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE BOUNDARIES OF THE CITY OF FRUITLAND PARK FLORIDA, IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN SECTION 171.044, FLORIDA STATUTES, TO INCLUDE WITHIN THE CITY LIMITS APPROXIMATELY 15.00 ± ACRES OF LAND GENERALLY LOCATED NORTH OF CR 466-A, EAST OF OLIVER LANE AND WEST OF MICRO RACETRACK ROAD; DIRECTING THE CITY MANAGER TO PROVIDE CERTIFIED COPIES OF THIS ORDINANCE AFTER APPROVAL TO THE CLERK OF THE CIRCUIT COURT, THE LAKE COUNTY MANAGER AND THE DEPARTMENT OF STATE OF THE STATE OF FLORIDA; PROVIDING FOR SCRIVENER’S ERRORS, SEVERABILITY AND CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, a petition has been submitted by Luxury Leased Homes USA, LLC, as Applicant, on behalf of T.D. Burke, Owner, requesting that approximately 15.00 ± acres of real property generally located north of CR 466-A, east of Oliver Lane and west of Micro Racetrack Road (the “Property”) be annexed to and made a part of the City of Fruitland Park; and

**WHEREAS**, the petition bears the signature of all applicable parties; and

**WHEREAS**, this Ordinance has been advertised as required by law with a copy of said notice sent via certified mail to the Board of County Commissioners of Lake County as provided for by statute; and

**WHEREAS**, the Planning and Zoning Board considered this ordinance at a public meeting; and

**WHEREAS**, the Property is contiguous to the City limits and is reasonably compact; and

**WHEREAS**, the City Commission has determined that the area proposed for annexation meets the requirements of §171.044, Florida Statutes; and

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Fruitland Park, Florida, as follows:

Section 1. The recitals set forth above are hereby adopted as legislative findings of the City Commission of the City of Fruitland Park.

Section 2. The following described property consisting of approximately 15.00 acres of land generally located north of CR 466-A, east of Oliver Lane and west of Micro Racetrack Road, contiguous to the City limits, is hereby incorporated into and made part of the City of Fruitland Park Florida. The property is more particularly described as follows:

**LEGAL DESCRIPTION:** See attached Exhibit A.

**Parcel Alternate Key No. 3884325**  
**Parcel Id No. 06-19-24-0003-000-08500**

Section 3. Upon this Ordinance becoming effective, the property annexed shall be subject to all laws, ordinances, and regulations enforced in the City of Fruitland Park, and shall be entitled to the same privileges and benefits as other parts of the City of Fruitland Park upon the effective

date of the annexation. Except that the property annexed in this Ordinance is subject to the Land Use Plan of the Lake County Comprehensive Plan and county zoning regulations until the City adopts the Comprehensive Plan Amendments to include the property annexed in the City Comprehensive Plan.

Section 4. The City Clerk shall forward a certified copy of this Ordinance to the Clerk of the Circuit Court, the County Manager of Lake County, Florida, and the Department of State of Florida within seven (7) days after its passage on second and final reading. It shall further be submitted to the Office of Economic and Demographic Research within 30 days of approval along with a statement specifying the population census effect and the affected land area. F.S. 171.091, Florida Statutes.

Section 5. Scrivener's errors in the legal description may be corrected without a public hearing or at public meeting, by re-recording the original ordinance or a certified copy of the ordinance and attaching the correct legal description.

Section 6. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 7. All ordinances and parts of ordinances to the extent in conflict with this Ordinance are hereby repealed.

Section 8. This Ordinance shall become effective immediately upon passage by the City Commission of the City of Fruitland Park.

**PASSED AND ORDAINED** in regular session of the City Commission of the City of Fruitland Park, Lake County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Chris Cheshire, Mayor  
City of Fruitland Park, Florida

(SEAL)

ATTEST:

\_\_\_\_\_  
Esther Coulson, MMC, City Clerk

Approved as to Form:

\_\_\_\_\_  
Anita Geraci-Carver, City Attorney



Mayor Cheshire \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Vice-Mayor Gunter \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Commissioner DeGrave \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Commissioner Mobilian \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Commissioner Bell \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)

Passed First Reading \_\_\_\_\_  
Passed Second Reading \_\_\_\_\_

**EXHIBIT A**  
**Legal Description**

LEGAL DESCRIPTION- NORTH PARCEL

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4" X4" CONCRETE MONUMENT NO ID AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE NORTH 00°49'19" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,326.69 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°07'47" EAST ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,327.37 FEET TO THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 41.38 FEET TO INTERSECT THE NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) AS SHOWN ON THE LAKE COUNTY ROAD MAP BOOK 2, PAGE 118; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 300.30 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 984.70 FEET TO THE NORTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°08'29" EAST ALONG THE NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 663.12 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 983.33 FEET; THENCE NORTH 89°15'33" WEST FOR 663.58 FEET TO THE POINT OF BEGINNING.

CONTAINING 652,744 SQUARE FEET OR 14.9849 ACRES, MORE OR LESS.



**City of Fruitland Park, Florida**  
**Community Development Department**  
 506 W. Berckman St., Fruitland Park, Florida 34731  
 Tel: (352) 360-6727 Fax: (352) 360-6652  
 www.fruitlandpark.org

|                     |       |
|---------------------|-------|
| <i>Sta Use Only</i> |       |
| Case No.:           | _____ |
| Fee Paid:           | _____ |
| Receipt No.:        | _____ |

## Development Application

Contact Information:

Owner Name: T D Burke  
 Address: P.O. Box 816, Fruitland Park, Florida 34731-0816  
 Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Applicant Name: Luxury Leased Homes USA, LLC  
 Address: 333 N. Alabama St., Ste. 350, Indianapolis, IN 46204  
 Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Engineer Name: Morris Engineering & Consulting, LLC  
 Address: 6997 Professional Pkwy E, Sarasota, FL 34240  
 Phone: 941-444-6644 Email: lstewart@morrisengineering.net

Property and Project Information:

**PROJECT NAME\*:** The Ranch at Fruitland Park  
\*A project name is required for all submissions. Please choose a name representative of the project for ease of reference.

Property Address: 305 CR 466A, Fruitland Park  
 Parcel Number(s): 1699649 and 3884325 Section: 6 Township: 19 Range 24  
 Area of Property: 19.57± acres Nearest Intersection: CR 466A and Oliver Lane  
 Existing Zoning: A & C-2 Existing Future Land Use Designation: Rural and Comm High Intensity  
 Proposed Zoning: Res. PUD Proposed Future Land Use Designation: Multi-Family High Density

The property is presently used for: Restaurant, single family and landscape company  
 The property is proposed to be used for: Residential homesites with related amenities and infrastructure  
 Do you currently have City Utilities? No

Application Type:

- |  |  |   |  |
|--|--|---|--|
| <input type="checkbox"/> Annexation      | <input type="checkbox"/> Comp Plan Amendment   | <input type="checkbox"/> Rezoning               | <input type="checkbox"/> Planned Development |
| <input type="checkbox"/> Variance        | <input type="checkbox"/> Special Exception Use | <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Final Plat          |
| <input type="checkbox"/> Minor Lot Split | <input type="checkbox"/> Preliminary Plan      | <input type="checkbox"/> Construction Plan      | <input type="checkbox"/> ROW/Plat Vacate     |
| <input type="checkbox"/> Site Plan       | <input type="checkbox"/> Minor Site Plan       | <input type="checkbox"/> Replat of Subdivision  |  |

Please describe your request in detail: \_\_\_\_\_

**Required Data, Documents, Forms & Fees**

Attached to this application is a list of **REQUIRED** data, documents and forms for each application type as well as the adopted fee schedule. These items must be included when submitting the application package. Failure to include the supporting data will deem your application package **INCOMPLETE** and will not be processed for review.

Printed Name: Jose Kreutz

Signature:  Date: 11/8/21

If application is being submitted by any person other than the legal owner(s) of the property, the applicant must have written authorization from the owner to submit application.



November 24, 2021

Mr. Dwayne Williams  
Community Development Director  
City of Fruitland Park  
506 W. Berckman St.  
Fruitland Park, FL 34731

RE: The Hawthorns at Fruitland Park  
305 CR 466A

Dear Dwayne,

We are pleased to submit to you our application for redevelopment of the former “Burke’s BBQ” and “Central Florida Nursery” located at 305 CR 466A in Fruitland Park. Our vision for the 19.5 acre parcel is a luxury, maintenance-free residential community consisting of 202 homes, while preserving the commercial nature along CR 466A thru the conversion of the former restaurant into the community’s clubhouse, fitness facility and coffee bar.

**THE HAWTHORNS AT FRUITLAND PARK**, as we have named the community, will offer a housing option currently not found in Fruitland Park: individual and paired homes with private backyards, available for lease. Our on-site management staff will maintain both the exterior and interior of each home, and we will offer 1, 2 and 3-bedroom homes with thoughtful floorplans and custom home finishes, in a pet friendly community which offers privacy and security.

Our community will cater to professionals in their 30’s and 40’s who are entering their family formation years and strive to transition out of apartments and into single-family homes—however, home ownership proves difficult to attain, due to a historic low inventory of homes and significant down payment requirements. The Hawthorns will offer the lifestyle of a single family home with the convenience of an apartment community, including resort-style amenities. Our community will offer dog park and pet-washing stations, valet trash removal, pool, 24-hour fitness, pickleball courts, walking trails and a coffee bar. Our buildings will be one and two-story tall.

We are excited to make this \$48-50 million investment in the City of Fruitland Park.

Best,

Jose Kreutz  
Manager

333 North Alabama Street, Suite 350  
Indianapolis, IN 46204  
P: 317-677-7125

# AERIAL PHOTO / LOCATION MAP

305 COUNTY ROAD 466-A



COUNTY - PID  
061924000030000850

CITY - PID  
061924000300001600

CR 466-A



Sumter County  
Lake County

Site Location

VILLAGE HILLS DR

CATO RANCH RD

WALTERS PL

EMORY DR

MICRO RACE TRACK RD

EDMONDSON DR

TIMBERTOP LN

OLIVER LN

CR-466A

BECKER AVE

VASQUEZ AVE

ELLIOTT AVE

CARVER CT

PARRISH PL

BRUSKO DR

GANO WAY

YODER DR

INCORVAIA WAY

PRIVETT DR

HOPE PL

COMBS CT

BLACKS STOCKWAY

DEKOR DR

MARKWARD DR

BRINE WAY

HERO CT

KRANZLA

JONES LN

HALLMARK PATH

JOHN

SHELTON ST

WISEMAN

PLASTER LN

MCGUIRE RD

MOYER LOOP

PAPE PL

KNOWLTON AVE

WILSEA PL

MCCABES ST

KNOWLTON AVE

IDE WITTE CT

HARRIS CT

KNOWLTON AVE

WILSEA PL

COLEMAN DR

KNOWLTON AVE

WILSEA PL

COLEMAN DR

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KNOWLTON AVE

**SURVEYOR'S REPORT**

**MAP OF BOUNDARY SURVEY :**

SEE SHEETS 2 AND 3 OF 3 FOR MAP OF SURVEY. THE MAP AND REPORT ARE NOT FULL AND COMPLETE WITHOUT THE OTHER.

**LEGAL DESCRIPTION:**

(SEE DATA SOURCE 2)

**THE LEGAL DESCRIPTION PER TITLE COMMITMENT:**

The land referred to herein below is situated in the County of LAKE, State of Florida, and described as follows:

The West 1/2 of the Northeast 1/4 of the Southwest 1/4 of Section 6, Township 19 South, Range 24 East, Lake County, Florida, less the right of way for County Road No. 466A.

**LEGAL DESCRIPTION- NORTH PARCEL AS SURVEYED**

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4"x4"-CONCRETE MONUMENT NO ID AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE NORTH 00°49'19" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6 FOR 1,326.69 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°07'47" EAST ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,327.37 FEET TO THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°08'29" EAST ALONG THE NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 41.38 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 300.30 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 984.70 FEET TO THE NORTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°08'29" EAST ALONG THE NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 683.12 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 983.33 FEET; THENCE NORTH 89°15'33" WEST FOR 663.58 FEET TO THE POINT OF BEGINNING.

CONTAINING 652,744 SQUARE FEET OR 14,9849 ACRES, MORE OR LESS.

TOGETHER WITH

**LEGAL DESCRIPTION- SOUTH PARCEL AS SURVEYED**

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4"x4"-CONCRETE MONUMENT NO ID AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE NORTH 00°49'19" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6 FOR 1,326.69 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°07'47" EAST ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,327.37 FEET TO THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,327.37 FEET TO THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°08'29" EAST ALONG THE NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 41.38 FEET TO INTERSECT THE NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) AS SHOWN ON THE LAKE COUNTY ROAD MAP BOOK 2, PAGE 118 AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 300.30 FEET TO THE SOUTHWEST CORNER OF THE NORTH PARCEL; THENCE SOUTH 89°15'33" EAST ALONG THE SOUTH LINE OF THE NORTH PARCEL FOR 663.58 FEET TO THE SOUTHWEST CORNER OF THE NORTH PARCEL, AND INTERSECTION WITH THE EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG SAID EAST LINE FOR 300.30 FEET TO INTERSECTION WITH THE AFORESAID NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) (SAID POINT BEING NORTH 00°50'21" E 42.88 FEET FROM THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6); THENCE NORTH 89°15'33" WEST ALONG SAID NORTH RIGHT OF WAY FOR 663.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 199,293 SQUARE FEET OR 4.5751 ACRES, MORE OR LESS.

MORE PARTICULAR DESCRIBED AS OVERALL

**LEGAL DESCRIPTION -OVERALL PARCEL- AS SURVEYED**

A PARCEL OF LAND LYING IN A PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4"x4"-CONCRETE MONUMENT NO ID AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; THENCE NORTH 00°49'19" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,326.69 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 89°07'47" EAST ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 1,327.37 FEET TO THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE NORTH 00°51'56" EAST ALONG THE WEST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 41.38 FEET TO INTERSECT THE NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) AS SHOWN ON THE LAKE COUNTY ROAD MAP BOOK 2, PAGE 118 AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°51'56" EAST, ALONG SAID LINE, FOR 300.30 FEET TO THE SOUTHWEST CORNER OF THE NORTH PARCEL; THENCE SOUTH 89°08'29" EAST ALONG THE NORTH LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6 FOR 683.12 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE SOUTH 00°50'21" WEST ALONG SAID EAST LINE FOR 300.30 FEET TO INTERSECTION WITH THE AFORESAID NORTH RIGHT OF WAY OF COUNTY ROAD 466-A (MILLER BOULEVARD) (SAID POINT BEING NORTH 00°50'21" E 42.88 FEET FROM THE SOUTHWEST CORNER OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6); THENCE NORTH 89°15'33" WEST ALONG SAID NORTH RIGHT OF WAY FOR 663.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 852,037 SQUARE FEET OR 19.5601 ACRES, MORE OR LESS.

**DATA SOURCES:**

- 1. BEARINGS ARE BASED UPON THE WEST LINE OF THE WEST 1/2 OF THE NE 1/4 OF THE SW 1/4 OF SECTION 6, TOWNSHIP 19S, RANGE 24E AS BEING N 00°51'56"E AS ESTABLISHED BASED ON FLORIDA STATE PLANE COORDINATES EAST ZONE AND IS SHOWN ON THE MAP OF SURVEY.
- 2. THIS SURVEY WAS PREPARED WITH THE BENEFIT OF A COMMITMENT FOR TITLE INSURANCE, PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY, FILE NO. 2037-5715286, COMMITMENT DATE: FEBRUARY 11, 2022 @ 8:00 A.M. AND LAST REVISED FEBRUARY 23, 2022. THE LEGAL DESCRIPTION SHOWN HEREON IS AS IT APPEARS IN SAID COMMITMENT AND ALSO AND AS SURVEY DESCRIPTION OF NORTH PARCEL, SOUTH PARCEL AND OVERALL AS SURVEYED PREPARED BY THE SURVEYOR.
- 3. SOURCE OF EASEMENT INFORMATION BEING SAID COMMITMENT REFERENCED IN DATA SOURCES 2.
- 4. STATE PLANE COORDINATES ARE BASED FDOT FLORIDA PERMANENT REFERENCE NETWORK THEY WERE ESTABLISHED WITH GPS USING MULTIPLE OBSERVATIONS CONSISTING OF MORE THAN THREE MINUTES AT EACH POINT.
- 5. THE RIGHT OF WAY IN FOR C.R. 466A AS RECORDED IN R.M.B 2, PAGE 118 OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, WAS UTILIZED IN THE PREPARATION OF THIS SURVEY.
- 6. THE RIGHT OF WAY IN FOR C.R. 466A AS RECORDED IN ORB 4271, PAGE 1960 OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, WAS UTILIZED IN THE PREPARATION OF THIS SURVEY.

**SURVEYOR'S NOTES:**

- 1. USE OF THIS SURVEY BY ANYONE OTHER THAN THOSE PREPARED FOR/CERTIFIED TO, WILL BE THE RE-USERS SOLE RISK WITHOUT LIABILITY TO THE SURVEYOR.
- 2. THE SIGNING PROFESSIONAL LAND SURVEYOR IS NOT RESPONSIBLE FOR ADDITIONAL EASEMENTS AND/OR RESTRICTIONS AFFECTING THIS PROPERTY THAT WERE NOT PROVIDED BY THE TITLE COMPANY REFERENCED IN DATA SOURCES 2.
- 3. THE LOCATIONS OF THE UNDERGROUND UTILITIES AND / OR THEIR APPURTENANCES WERE PERFORMED BY A FIELD SURVEY AND ONLY LOCATED AS SHOWN ON THE FACE OF THE SURVEY. ONLY THE UNDERGROUND UTILITIES AND/OR THEIR APPURTENANCES WHICH WERE VISIBLE FROM GROUND LEVEL TO THE SURVEYOR ON THE ACTUAL DAY OF THE FIELD SURVEY WERE LOCATED. NO EXCAVATIONS OR SUBSURFACE WORK EFFORTS OF ANY KIND WERE PERFORMED BY THE SURVEYOR TO VERIFY THE EXISTENCE OF ANY UNDERGROUND UTILITIES AND/OR THEIR APPURTENANCES. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES AND/OR THEIR APPURTENANCES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED.
- 4. PRINTED DIMENSIONS SHOWN ON THE SURVEY SUPERSEDE SCALED DIMENSIONS. THERE MAY BE ITEMS DRAWN OUT OF SCALE TO GRAPHICALLY SHOW THEIR LOCATION.
- 5. UNDERGROUND FOUNDATIONS AND THEIR LOCATIONS HAVE NOT BEEN DETERMINED.
- 6. IRRIGATION EQUIPMENT AND/OR THEIR APPURTENANCES HAVE NOT BEEN LOCATED UNLESS OTHERWISE SHOWN HEREON.
- 7. FIELD WORK WAS COMPLETED ON 03/17/22.
- 8. NO INFORMATION FOR THE ADJOINING PROPERTY OWNERS WAS PROVIDED TO THE SURVEYOR.
- 9. CALCULATED (C) GEOMETRY SHOWN HEREON WAS CALCULATED USING FIELD LOCATED POINTS.
- 10. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
- 11. ANGULAR AND/OR DIMENSIONAL DISCREPANCIES BETWEEN THE LEGAL DESCRIPTION(S) AND THE FIELD LOCATED OCCUPATION BOUNDARY CORNERS, AND BOUNDARY CORNERS WITH MULTIPLE BOUNDARY MONUMENTS ALONG WITH THEIR CORRESPONDING QUADRANT DIRECTIONAL MISSES, ARE SHOWN ON MAP OF SURVEY.
- 12. THE SUBJECT PROPERTY LIES WITHIN FLOOD ZONE X, PER FLOOD INSURANCE RATE MAP, COMMUNITY NUMBER 120421, PANEL NUMBER 0305, SUFFIX E, MAP NUMBER 12069C0305E, MAP REVISED DATE DECEMBER 18, 2012.

**EASEMENTS/RIGHT-OF-WAYS:**

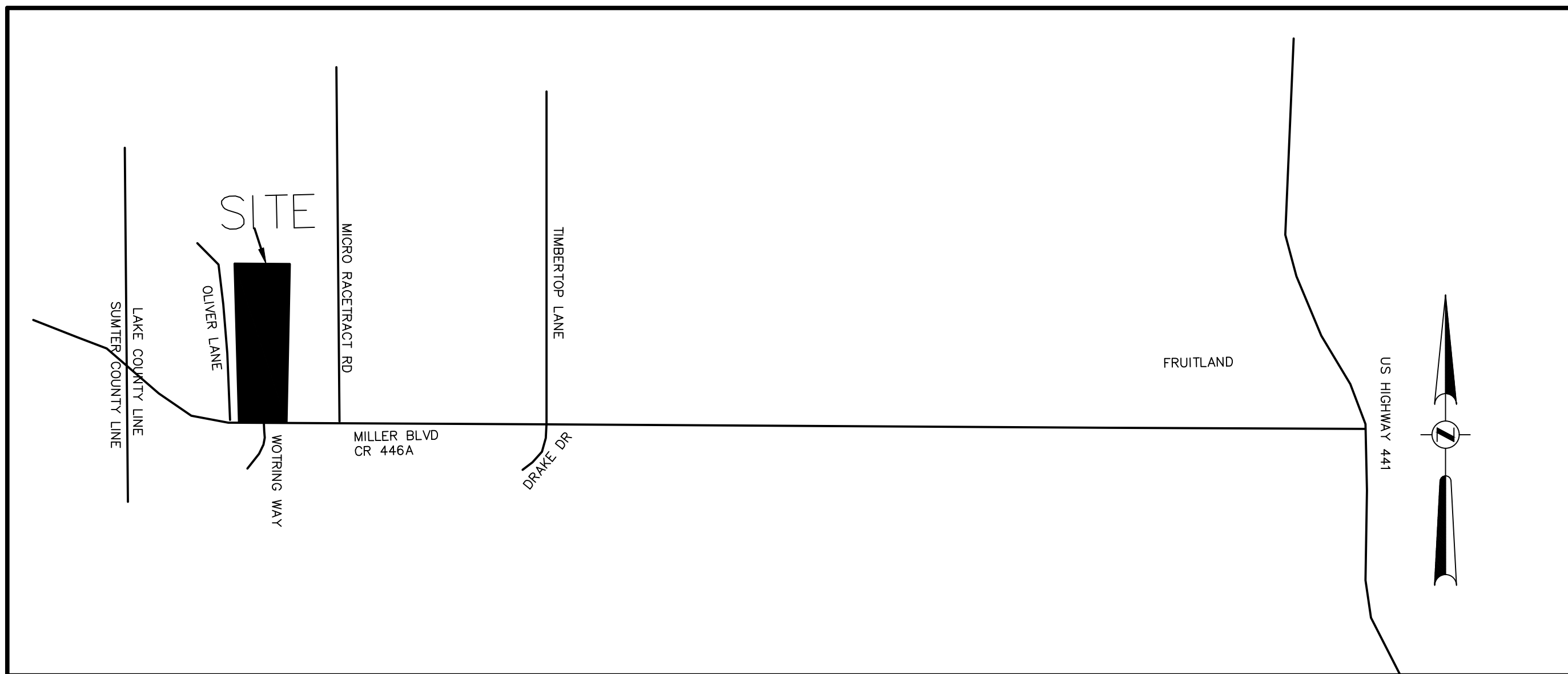
- 1. THERE MAY BE EASEMENTS AND/OR RESTRICTIONS AFFECTING THIS PROPERTY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

**THE FOLLOWING ARE PER SCHEDULE B - SECTION 2 OF THE COMMITMENT REFERENCED IN DATA SOURCE 2**

- 1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment. RESPONSE TO ITEM 1: NON SURVEY MATTER
- 2. Any rights, interests, or claims of parties in possession of the land not shown by the public records. RESPONSE TO ITEM 2: NON SURVEY ITEM
- 3. Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the land. RESPONSE TO ITEM 3: SEE MAP OF SURVEY
- 4. Any lien, for services, labor, or materials in connection with Improvements, repairs or renovations provided before, on, or after Date of Policy, not shown by the public records. RESPONSE TO ITEM 4: NON SURVEY ITEM
- 5. Any dispute as to the boundaries caused by a change in the location of any party body within or adjacent to the land prior to Date of Policy, and any adverse claim to all or part of the land that is, at Date of Policy, or was previously under water. RESPONSE TO ITEM 5: NON SURVEY ITEM
- 6. Taxes or special assessments not shown as liens in the public records or in the records of the local tax collecting authority, at Date of Policy. RESPONSE TO ITEM 6: NON SURVEY ITEM
- 7. Any minerals or mineral rights leased, granted or retained by current or prior owners, without right of entry. RESPONSE TO ITEM 7: NON SURVEY MATTER
- 8. Taxes and assessments for the year 2022 and subsequent years, which are not yet due and payable. RESPONSE TO ITEM 8: NON SURVEY MATTER
- 9. Right-of-Way Easement recorded August 1, 1966 in Book 317, Page 525. RESPONSE TO ITEM 9: THIS IS A BLANKET EASEMENT TO SUMTER ELECTRIC OVER ALL OF THE SURVEYED PARCEL.
- 10. Intentionally Deleted. RESPONSE TO ITEM 10: NON SURVEY MATTER
- 11. Burke's Bar-B-Q Developer Agreement recorded October 12, 2018 in Book 5183, Page 1503. RESPONSE TO ITEM 11: NON SURVEY MATTER
- 12. Terms and conditions of any existing unrecorded lease(s), and all rights of lessee(s) and any parties claiming through the lessee(s) under the lease(s). RESPONSE TO ITEM 12: NON SURVEY MATTER

**THE FOLLOWING IS NOT INCLUDED IN SCHEDULE B - SECTION 2 OF THE COMMITMENT REFERENCED IN DATA SOURCE 2:**

- E1. SUBURBAN PROPANE GAS EASEMENT recorded August 17, 2012 in Book 4202, Page 932. RESPONSE TO ITEM E1: THIS IS A BLANKET EASEMENT OVER THE SOUTH PARCEL (06-19-24-0003-000-01600)



VICINITY MAP -NOT TO SCALE-

**SYMBOLS LEGEND**

- + = Aerial Target
- ⊠ = Air Release Valve
- ⊠ = Bench Mark
- ⊠ = Back Flow Preventor
- ⊠ = Cable TV Point Stripe
- ⊠ = Cable TV Pedestal
- ⊠ = Communications Manhole
- = Concrete Light Pole
- = Concrete Post
- = Concrete Utility Pole
- ⊠ = Drainage Manhole
- ⊠ = Electric Box
- ⊠ = Electric Manhole
- ⊠ = Electric Meter
- ⊠ = Electric Transformer
- ⊠ = Fire Hydrant
- ⊠ = Flag Pole
- ⊠ = Gas Line Marker
- ⊠ = Gas Filler Cap
- ⊠ = Gas Valve
- ⊠ = Gas Meter Box
- ⊠ = Gas Line Point Stripe
- ⊠ = Gas Vent
- ⊠ = Gopher Tortoise Hole
- ⊠ = Grate Inlet
- ⊠ = Guy Wire
- ⊠ = Handicapped
- ⊠ = Light Pole
- ⊠ = Mail Box
- ⊠ = Metal Post
- ⊠ = Monitor Well
- ⊠ = Parking Meter
- ⊠ = Power Point Stripe
- ⊠ = Reclaimed Water Point Stripe
- ⊠ = Reclaimed Water Box
- ⊠ = Reclaimed Water Valve
- ⊠ = Sanitary Sewer Manhole
- ⊠ = Sanitary Cleanout
- ⊠ = Sanitary Sewer Point Stripe
- ⊠ = Section Corner
- ⊠ = Sign
- ⊠ = Sprinkler Control Box
- ⊠ = Sprinkler Head
- ⊠ = Steel Transmission Pole
- ⊠ = Storm Water Point Stripe
- ⊠ = Telephone Pedestal
- ⊠ = Telephone Manhole
- ⊠ = Telephone Point Stripe
- ⊠ = Telephone Marker
- ⊠ = Traffic Signal Box
- ⊠ = Traffic Signal Pole
- ⊠ = Underground Cable Marker
- ⊠ = Verizon Box
- ⊠ = Verizon Marker
- ⊠ = Water Blow Off Valve
- ⊠ = Water Line Marker
- ⊠ = Water Line Point Stripe
- ⊠ = Water Meter
- ⊠ = Water Valve
- ⊠ = Well
- ⊠ = Wood Utility Pole
- ⊠ = Wood Light Pole
- ⊠ = Wood Post/Pole
- ⊠ = Wood Transmission Pole
- ⊠ = Point of Elevation
- ⊠ = Calculated Dimension from Structure to Boundary / Right-of-Way Line

- = FOUND 5/8" IRON ROD WITH CAP "AVID LB 7345" (UNLESS OTHERWISE NOTED)
- = SIR, SET 5/8" IRON ROD WITH CAP "AVID LB 7345" (UNLESS OTHERWISE NOTED)
- ⊠ = FCM, FOUND CONCRETE MONUMENT 4"x4" WITH DISK MARKED "PRM LB 7345" (UNLESS OTHERWISE NOTED)
- ★ = SNAO PRM, SET NAIL AND DISK "PRM LB 7345" (UNLESS OTHERWISE NOTED)
- ☆ = POP, SET NAIL AND DISK "PCP LB 7345" (UNLESS OTHERWISE NOTED)
- △ = CENTRAL ANGLE

**ABBREVIATIONS LEGEND**

- AC = Acres
- A/C = Air Conditioner
- ADW = Asphalt Driveway
- ARC = Arc Distance (Length)
- ASPH = Asphalt
- BC = Back of Curb
- BOCM = Board of County Commissioners Minutes Book
- BFPD = Back Flow Prevention Device
- BLDG = Building
- BNDY = Boundary
- BWF = Barb Wire Fence
- (C) = Calculated Data
- C/C = Covered Concrete
- CB = Chord Bearing
- CCCL = Coastal Construction Control Line
- CCR = Certified Corner Record
- CDW = Concrete Driveway
- CI = Curb Inlet
- € = Center Line
- CH = Chord Length
- CL = Chain Link Fence
- CLS = Centerline Swale
- CM = Concrete Monument
- CMP = Corrugated Metal Pipe
- CO = Clean out
- CON = Concrete
- COR = Corner
- CPB = Condo Plat Book
- C/S = Concrete Slab
- CTS = Control Structure
- (D) = Deed
- DCVA = Deed Book
- DEPT = Double Check Valve Assembly
- DIA = Diameter
- DIP = Ductile Iron Pipe
- DMH = Drainage Manhole
- DS = Down Spout
- DW = Driveway
- E = East
- ECMP = Elliptical Corrugated Metal Pipe
- EL = Elevation
- EOW = Edge of Water
- EP = Edge of Pavement
- ERCP = Elliptical Reinforced Concrete Pipe
- ESMT = Easement
- (F) = Field Data
- FCM = Found Concrete Monument
- FDOT = Florida Department of Transportation
- FH = Fire Hydrant
- FIP = Found Iron Pipe
- FIR = Found Iron Rod
- FL = Flow Line
- FND = Found
- FN&D = Found Nail and Disk
- FFE = Finished Floor Elevation
- FN&TT = Found Nail and Tin Tab
- FOP = Found Open End Iron Pipe
- FPB = Florida Power Corporation Box
- FPC = Florida Power Corporation
- FPP = Found Pinched Iron Pipe
- FRRS = Found Railroad Spike
- FT = Feet
- F/T = Fence Tie
- FX = Found X-cut
- GI = Grate Inlet
- GPS = Global Positioning System
- GT = Gopher Tortoise Hole
- GV = Gas Valve
- HC = Handicapped
- IC = Illegal cap
- ID = Identification
- IE = Invert Elevation
- INV = Invert
- JL = Jurisdictional
- LD = Legal Description
- LB = Licensed Business Number
- LF = Linear Feet
- LP = Light Pole
- LS = Licensed Surveyor
- MAS = Masonry
- MES = Mitered End Section
- MH = Manhole
- MHW = Mean High Water
- MOL = More or Less
- N = North
- N/C = No Cap
- N/F = Not Found
- NAD = North American Datum
- NAVD = North American Vertical Datum
- NGS = National Geodetic Survey
- NGVD = National Geodetic Vertical Datum
- NP = Normal Pool Elevation
- (NR) = Non Radial
- O/A = Overall
- OHW = Overhead Wire(s)
- ORB = Official Record Book
- OSW = Other Surface Water
- (P) = Plat Book XX Page XX
- PC = Plat Book
- PB = Point of Curvature
- PCP = Permanent Control Point
- PG(S) = Pages
- (PI) = Point of Intersection
- PL = Property Line
- PLS = Professional Land Surveyor
- POB = Point of Beginning
- POL = Point of Commencement
- PRM = Permanent Reference Monument
- PSM = Professional Surveyor and Mapper
- PT = Point of Tangency
- PVC = Polyvinyl Chloride Pipe
- PWL = Painted White Line
- PYL = Painted Yellow Line
- (R) = Recorded Data
- R = Radius
- RCP = Reinforced Concrete Pipe
- RD = Roof Drain
- RNG = Range
- R/W = Right of Way
- S = South
- SCM = Set Concrete Monument, 4"x4", "PRM LB 7345"
- SEC = Section
- SHW = Seasonal High Water Elevation
- SIR = Set 5/8" Iron Rod and Cap, "AVID LB 7345"
- SIR(W) = Set 5/8" Iron Rod and Cap, "WT COR LB 7345"
- SMH = Sanitary Manhole
- SN&D = Set Nail and Disk, "AVID LB 7345"
- SN&D(W) = Set Nail and Disk, "WT COR LB 7345"
- SQ = Square
- SR = State Road
- STY = Story
- SW = Sidewalk
- TBM = Temporary Benchmark
- TOB = Top of Bank
- TOS = Toe of Slope
- TPS = Traffic Plat Stripe
- TRANS = Transformer
- TRV = Traverser
- (TYP) = Typical
- TWP = Township
- U/P = Utility Pole
- VCP = Vitrified Clay Pipe
- W = West
- W/ = With
- WDF = Wood Fence
- WT = Witness
- W/T = Wall Tie
- WV = Water Valve

Table with columns: SHEET, NO. DATE, DESCRIPTION, BY

Table with columns: SECTION RANGE, DRAWN, FIELD BOOK/PAGE, PHOTO, DATE

LUXURY LEASED HOMES USA, LLC
CIVIL ENGINEERING 2300 CURLEW ROAD
LAND PLANNING STE 201
TRAFFIC/TRANSPORTATION PALM HARBOR, FLORIDA
ENVIRONMENTAL SCIENCES 34883
SURVEYING PHONE (727) 789-9500
GIS FAX (727) 784-6662
AVID GROUP P.C.
AVID LICENSE NO. 4270

305 COUNTY ROAD 466A
LAKE COUNTY, FLORIDA
BOUNDARY SURVEY
ALTA/NSPS LAND TITLE SURVEY

**TABLE A OPTION ITEMS**

- ITEM 2: BUILDING ADDRESS
305 AND 311 COUNTY ROAD 466A ( MILLER BLVD ) , FRUITLAND, FL
- ITEM 3: FLOOD ZONE
THE SUBJECT PROPERTY LIES WITHIN FLOOD ZONE X, PER FLOOD INSURANCE RATE MAP, COMMUNITY NUMBER 120421, PANEL NUMBER 0305, SUFFIX E, MAP NUMBER 12069C0305E, MAP REVISED DATE DECEMBER 18, 2012
- ITEM 4: AREA
852,037 SQUARE FEET OR 19.5601 ACRES, MORE OR LESS.
- ITEM 7(A): BUILDINGS
SEE MAP OF SURVEYS ON SITE
- ITEM 8: IMPROVEMENTS
SEE MAP OF SURVEY
- ITEM 9: PARKING
THERE ARE 48 PARKING SPACES AND 2 HANDICAPPED SPACES
- ITEM 11: OBSERVED UTILITIES
SEE MAP OF SURVEY
- ITEM 13: ADJOINERS
SEE MAP OF SURVEY DRAWING

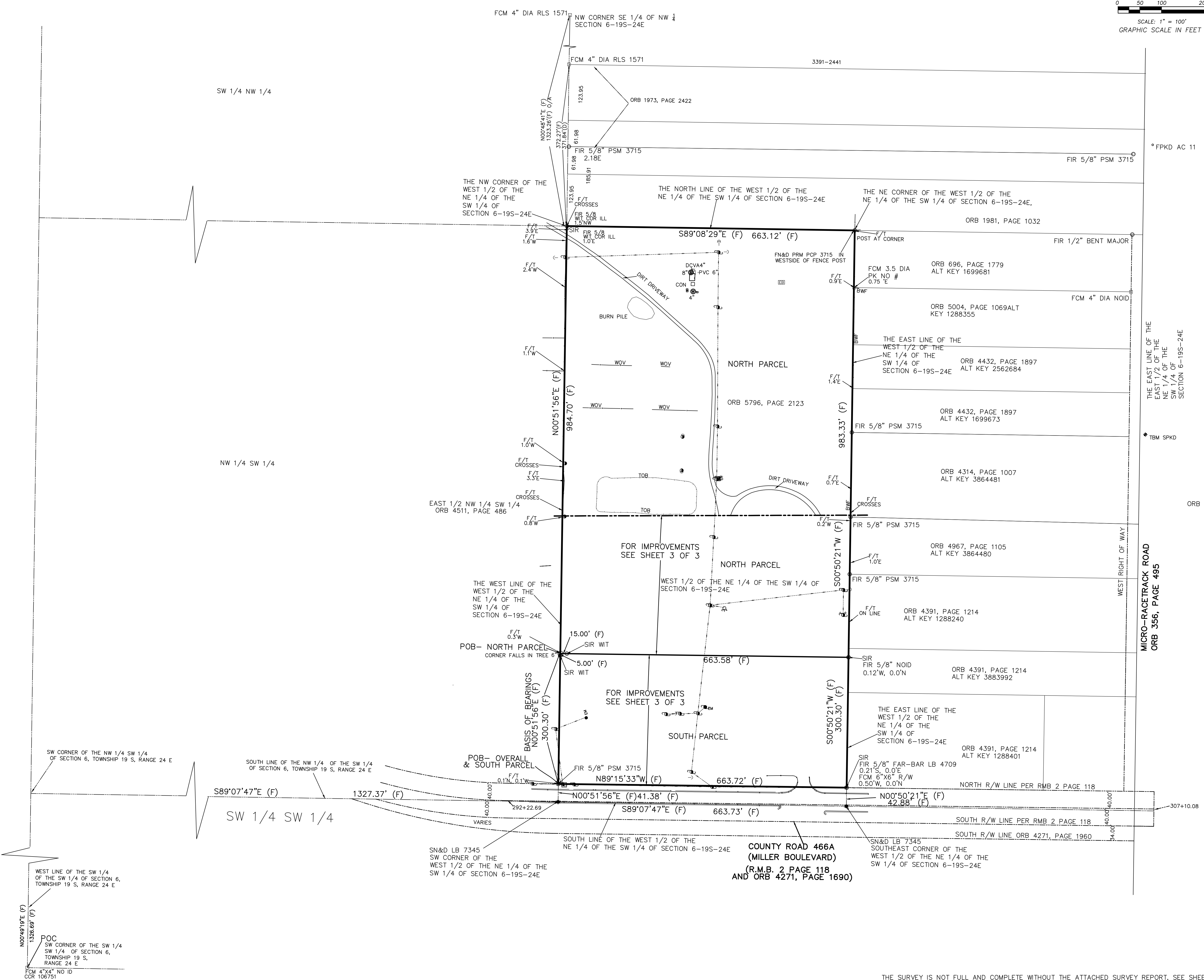
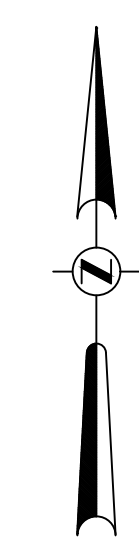
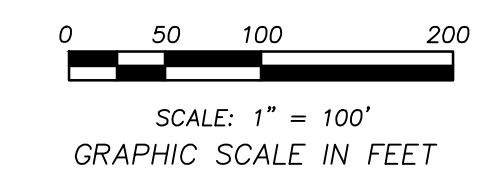
**ALTA/NSPS LAND TITLE CERTIFICATION:**

TO:
Luxury Leased Homes USA, LLC
Sparrow Acquisitions, LLC, a Texas limited liability company
First American Title Insurance Company
Byrd Campell, P.A.

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 7(A), 8, 9, 11, AND 13 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON 3/17/22

JOHN L. WABY
PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER 4270





POC  
SW CORNER OF THE SW 1/4  
SW 1/4 OF SECTION 6,  
TOWNSHIP 19 S,  
RANGE 24 E  
FCM 4"x4" NO ID  
CCR 106751

|  |       |  |  |
|--|-------|--|--|
| NO   | SHEET | 2 of 3   |  |
|  |       | THE SURVEY IS NOT FULL AND COMPLETE WITHOUT THE ATTACHED SURVEY REPORT, SEE SHEET 1.   |  |
| <b>305 COUNTY ROAD 466A</b><br><b>LAKE COUNTY, FLORIDA</b><br><b>BOUNDARY SURVEY</b><br><b>ALTA/NSPS LAND TITLE SURVEY</b>                 |       | <b>LUXURY LEASED HOMES USA, LLC</b><br>CIVIL ENGINEERING 2300 CURLEW ROAD<br>LAND PLANNING STE 201<br>TRAFFIC/TRANSPORTATION PALM HARBOR, FLORIDA 34683<br>ENVIRONMENTAL SCIENCES SURVEYING PHONE (727) 789-9500<br>FAX (727) 784-6662<br>GIS AVID GROUP.COM |  |
| SEE SHEET 1 OF 3 FOR<br>SURVEYOR'S SIGNATURE AND SEAL  |       | NO. DATE<br>03/17/2022   |  |
| SECTION/PAGE<br>06-19 S-24 E<br>DRAWN<br>JLV<br>CC<br>JVV<br>FIELD BOOK/PAGE<br>2017/23-30<br>PROJECT NO.<br>3431003<br>DATE<br>03/17/2022 |       | DESCRIPTION<br>BY  |  |



CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 9 i

**ITEM TITLE:** Quasi-Judicial Public Hearing - Resolution 2022-040  
Myrtle Breezes Variance - Petitioner: Crystal Lake  
Land Holdings, LLC

**MEETING DATE:** November 10, 2022

**DATE SUBMITTED:** October 24, 2022

**SUBMITTED BY:** City Attorney/City Manager/Community Development  
Director

**BRIEF NARRATIVE:** Resolution 2022-040 Variance of minimum lot width;  
property located at 1108 Lake Myrtle Breezes. Petitioner: Crystal Lake Land Holdings, LLC.

Owner, via the applicant Angel Rivera of A&B Engineering Consultants, is requesting a variance of the minimum lot width from 80' to 70.3' for 1108 Myrtle Breezes Court. The city approved a lot line deviation between Lots 8, 9 and 10 in November 2009. This resulted in the remaining portion of Lot 10 not meeting the minimum requirement of an 80' width at the building setbacks lines on cul-de-sacs and curves pursuant to the City's LDRs, Chapter 154, Section 154.040. The Planning and Zoning Board approved the subject item at its November 10<sup>th</sup> meeting.

**FUNDS REQUIRED:** None

**ATTACHMENTS:** Draft resolution 2022-040, development application, justification, sketch of survey, legal description, affidavit and August 19, 2022 staff report.

**RECOMMENDATION:** Staff recommends approval of Resolution 2022-040.

**ACTION:** Adopt Resolution 2022-040.

**RESOLUTION 2022-040**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, GRANTING A VARIANCE TO THE LAND DEVELOPMENT REGULATIONS (LDR) RULE OF MINIMUM LOT WIDTH AT BUILDING SETBACK LINE FROM 80' TO 70' ON THE DESCRIBED PROPERTY LOCATED AT 1108 MYRTLE BREEZES COURT IN THE CITY OF FRUITLAND PARK, FLORIDA, OWNED BY CRYSTAL LAKE LAND HOLDINGS, LLC, PROVIDING FOR AN EXPIRATION DATE AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, A & B Engineering Consultants, PA, has petitioned for a variance on behalf of the property owner Crystal Lake Land Holdings, LLC for the property located at 1108 Myrtle Breezes Court, in the City of Fruitland Park, Florida; and

**WHEREAS**, the owner desires to request a variance from the City of Fruitland Park requirement pertaining to the minimum lot width requirement at the building setback line;

**WHEREAS**, to accommodate the existing lot a variance from the minimum lot width requirements contained in the City of Fruitland Park's Land Development Regulations is required; and

**WHEREAS**, the owner requests a variance to the following LDR requirements:

- Chapter 154, Section 154.030(d)(2)(E)(ii) minimum lot width of 80' at the building setback line

**WHEREAS**, the City Commission has considered the petition in accordance with standards for the granting of variances contained in Chapter 168, City of Fruitland Park Land Development Regulations,

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA**, as follows:

1. The petition for variance filed by A & B Engineering Consultants, PA. on behalf of the property owner, Crystal Lake Land Holdings, LLC for property located on Myrtle Breezes Court, in the City of Fruitland Park, Florida, more particularly described as:

**LEGAL DESCRIPTION:**

Lot 10 of Lake Myrtle Breezes, as shown on the plat Book 56, Page(s) 95 and 96, Public Records of Lake County, Florida. Less and Except that portion amended by the lot line deviation recorded in Official Records Book 3902, Page 307, Public Records of Lake County, described as follows: Begin at the Northwesterly corner of said Lot 10; thence run South 05°52 '29" West a distance of 457.82 feet to Southwest corner of said Lot 10, thence run North 0°26 '17" East along said West line of Lot 10 a distance of 393.43 feet, thence run North 35°16 '12" East a distance of 75.93 feet to the Point of Beginning.

is granted as follows:

1. A variance to Chapter 154, Section 154.030(d)(2)(E)(ii) minimum lot width requirements at the building setback line from 80' to 70'.

2. This variance shall become effective immediately on its approval and adoption by the City Commission of the City of Fruitland Park, Florida.
3. If the variance has not been utilized within two (2) years of being granted it shall expire.

**PASSED AND ORDAINED** in regular session of the City Commission of the City of Fruitland Park, Lake County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
 Chris Cheshire, Mayor  
 City of Fruitland Park, Florida

ATTEST:

Approved as to Form:

\_\_\_\_\_  
 Esther Coulson, MMC, City Clerk  
 (SEAL)

\_\_\_\_\_  
 Anita Geraci-Carver, City Attorney

Mayor Cheshire      \_\_\_(Yes), \_\_\_(No), \_\_\_(Abstained), \_\_\_(Absent)  
 Vice Mayor Gunter    \_\_\_(Yes), \_\_\_(No), \_\_\_(Abstained), \_\_\_(Absent)  
 Commissioner Bell    \_\_\_(Yes), \_\_\_(No), \_\_\_(Abstained), \_\_\_(Absent)  
 Commissioner DeGrave \_\_\_(Yes), \_\_\_(No), \_\_\_(Abstained), \_\_\_(Absent)  
 Commissioner Mobilian \_\_\_(Yes), \_\_\_(No), \_\_\_(Abstained), \_\_\_(Absent)

Passed First Reading \_\_\_\_\_



# The Villages<sup>®</sup> DAILY SUN

Published Daily  
Lady Lake, Florida  
State of Florida  
County Of Lake


Before the undersigned authority personally appeared **Joseph Szabo**, who on oath says that she is Legal Ad Coordinator of the DAILY SUN, a daily newspaper published at Lady Lake in Lake County, Florida with circulation in Lake, Sumter and Marion Counties; that the attached copy of advertisement, being a Legal #1091629 in the matter of

### NOTICE OF PUBLIC HEARING

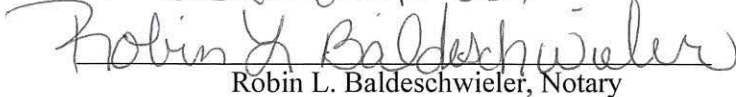
was published in said newspaper in the issues of

**OCTOBER 26, 2022**  
**NOVEMBER 22, 2022**

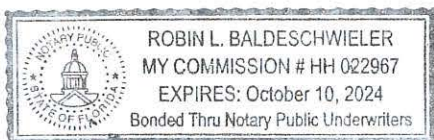
Affiant further says that the said Daily Sun is a newspaper published at Lady Lake in said Lake County, Florida, and that the said newspaper has heretofore been continuously published in said Lake County, Florida each week and has been entered as second class mail matter at the post office in Lady Lake, in said Lake County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisements; 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.

  
(Signature Of Affiant)

Sworn to and subscribed before me this 28  
day of October 2022

  
Robin L. Baldeschwieler, Notary

Personally Known X or  
Production Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



### NOTICE OF PUBLIC HEARING RESOLUTION 2022-040

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, GRANTING A VARIANCE TO THE LAND DEVELOPMENT REGULATIONS (LDR) RULE OF MINIMUM LOT WIDTH AT BUILDING SETBACK LINE FROM 80' TO 70' ON THE DESCRIBED PROPERTY LOCATED AT 1108 MYRTLE BREEZES COURT IN THE CITY OF FRUITLAND PARK, FLORIDA, OWNED BY CRYSTAL LAKE LAND HOLDINGS, LLC, PROVIDING FOR AN EXPIRATION DATE AND PROVIDING FOR AN EFFECTIVE DATE.**

The proposed Resolution will be considered at the following public meetings:

- Fruitland Park Planning & Zoning Board Meeting on November 3, 2022 at 6:00 p.m.
- Fruitland Park City Commission Hearing on November 10, 2022 at 6:00 p.m.
- Fruitland Park City Commission Hearing on December 8, 2022 at 6:00 p.m.

The public meetings will be held in the Commission Chambers located at City Hall, 506 West Berckman Street, Fruitland Park FL 34731. These meetings are open to the public and hearings may be continued as determined by the P&Z Board and/or City Commission from time to time to a date certain. The proposed Resolution and metes and bounds legal description of property may be inspected by the public during normal working hours at City Hall. For further information call 352-360-6727. Interested parties may appear at the meetings and will be heard with respect to the proposed Resolution.

A person who decides to appeal any decision made by any board, agency or council with respect to any matter considered at such meeting or hearing, will need a record of the proceedings. For such purposes, any such person may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is based (Florida Statutes, 286.0105). Persons with disabilities needing assistance to participate in any of these proceedings should contact Esther Coulson, City Clerk at (352) 360-6790 at least 48 hours before the date of the scheduled hearing.

#1091629      **October 26, 2022**  
**November 22, 2022**



**City of Fruitland Park, Florida**  
**Community Development Department**  
 506 W. Berckman St., Fruitland Park, Florida 34731  
 Tel: (352) 360-6727 Fax: (352) 360-6652  
 www.fruitlandpark.org

|                     |       |
|---------------------|-------|
| <i>Sta Use Only</i> |       |
| Case No.:           | _____ |
| Fee Paid:           | _____ |
| Receipt No.:        | _____ |

## Development Application

Contact Information:

Owner Name: Crystal Lake Land Holdings LLC  
 Address: 114 Sleepy Hollow Rd, Leesburg FL 34748  
 Phone: 352-408-3319 Email: dreichcoe@aol.com

Applicant Name: A&B Engineering Consultants, PA (Angel L Rivera, PE)  
 Address: 14164 Stilton ST, Tampa FL 33626  
 Phone: 727-698-9513 Email: ariveraproperties@gmail.com

Engineer Name: A&B Engineering Consultants, PA (Angel L Rivera, PE)  
 Address: 14164 Stilton ST, Tampa FL 33626  
 Phone: 727-698-9513 Email: ariveraproperties@gmail.com

Property and Project Information:

**PROJECT NAME\*:** Lake Myrtle Breezes  
 \*A project name is required for all submissions. Please choose a name representative of the project for ease of reference.

Property Address: 1108 Myrtle Breezes Ct  
 Parcel Number(s): 08-19-24-1200-000-01000 Section: 08 Township: 19 Range 24  
 Area of Property: 0.33ac (per Property Appraiser) Nearest Intersection: Myrtle Breezes Ct  
 Existing Zoning: R-2, Residential Single Family Existing Future Land Use Designation: R-2  
 Proposed Zoning: R-2, Residential Single Family Proposed Future Land Use Designation: Single Family Medium Density

The property is presently used for: vacant developed lot  
 The property is proposed to be used for: single family home  
 Do you currently have City Utilities? watermain in development, and will construct septic tank

Application Type:


|  |  |   |  |
|--|--|---|--|
| <input type="checkbox"/> Annexation          | <input type="checkbox"/> Comp Plan Amendment   | <input type="checkbox"/> Rezoning               | <input type="checkbox"/> Planned Development |
| <input checked="" type="checkbox"/> Variance | <input type="checkbox"/> Special Exception Use | <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Final Plat          |
| <input type="checkbox"/> Minor Lot Split     | <input type="checkbox"/> Preliminary Plan      | <input type="checkbox"/> Construction Plan      | <input type="checkbox"/> ROW/Plat Vacate     |
| <input type="checkbox"/> Site Plan           | <input type="checkbox"/> Minor Site Plan       | <input type="checkbox"/> Replat of Subdivision  |  |

Please describe your request in detail: We request a variance for the minimum lot width from 80ft to 70.3ft at 30ft from the street right of way.

**Required Data, Documents, Forms & Fees**

Attached to this application is a list of **REQUIRED** data, documents and forms for each application type as well as the adopted fee schedule. These items must be included when submitting the application package. Failure to include the supporting data will deem your application package **INCOMPLETE** and will not be processed for review.

Printed Name: Angel L Rivera

Signature:  Date: July 25, 2022

If application is being submitted by any person other than the legal owner(s) of the property, the applicant must have written authorization from the owner to submit application.



# Development Application Checklist

## The Following are Required for ALL Development Applications:

- Legal Description (Word file req'd)     Current Deed     Aerial Photo  
 Property Appraiser Information     Electronic Copy of Application     Location Map

Pre-application conferences are strongly encouraged. Submit TWO CDs with ALL documents in pdf; those that are generated as CAD files should be submitted in pdf and dwg formats. . Legal Descriptions should also come with a MS Word file of the legal description. Most maps are accessible through [www.lakecountyfl.gov/maps/](http://www.lakecountyfl.gov/maps/). Note: All maps are required to depict adjacent properties at a minimum.

**Failure to provide adequate maps may delay the application process.**

## Other Required Analyses and Maps:

### Small Scale Comprehensive Plan Amendment Applications:

- Justification for Amendment     Environmental Constraints Map     Requested FLU Map

### Large Scale Comprehensive Plan Amendment Applications:

Maps:     Environmental Constraints     Soils     Requested FLUM Designation     Requested Zoning Map Designation

Analyses:     Environmental Assessment     Utility Availability Analysis     Urban Sprawl Analysis     School Impact Analysis  
 Traffic Impact Analysis     Consistency with the Comp Plan     Florida Master Site File sign-off or Archaeological Survey

Rezoning Applications:     Requested Zoning Map     Justification for Rezoning

### Planned Development Applications:

Maps/Plans:     Conceptual Plan as Described in LDRs Chapter 154, Section 154.030,10,G     Environmental Constraints

Analyses:     Environmental Assessment     Traffic Impact Analysis     Preliminary Concurrency Analysis

Variance Applications:     Justification for Variance

### Special Exception Use Applications:

- Justification for Special Exception Use  
 Site Sketch     List of Special Requirements as Described in LDRs, Chapter 155

### Conditional Use Permit Applications:

- Proposed List of Conditions and Safeguards  
 Site Plan as Described in LDRs, Chapter 155     Written Statement as Described in LDRs, Chapter 155

### Subdivision Applications:

(Preliminary Plan, Improvement Plan and Final Plat)

- As Described in LDRs, Chapter 157

### Minor Subdivision Applications:

- As Described in LDRs, Chapter 157

### Site Plan Applications:

- As Described in LDRs, Chapter 160



July 25, 2022

Community Development Department, City of Fruitland Park  
Attn. Mrs Sharon Williams  
506 W Berckman Street  
Fruitland Park, FL 34731

**RE: Request for Variance  
1108 Myrtle Breezes Ct.  
Fruitland Park, FL**

Dear Mrs Williams,

We hereby request a variance to the minimum lot width set forth in your Land Development Code for a zoning district R-2. The requirement is 80ft and the lot has 70.3ft at 30ft from the street right of way.

**Justification:**

1. The lot has a width larger than 80ft in more than half of the lot
2. The required side setbacks will remain
3. No other variances are needed
4. The lot was split by a previous owner and the current owner didn't know
5. Required services are already available without construction of additional improvements
6. The granting of a variance is consistent with the overall intent of the LDC, and will not be injurious to the surrounding properties or detrimental to the public welfare.

The intent of this variance is to conclude a sale to a Builder, so a new home can be built on the developed lot. I hope that you find our request acceptable.

Prepared by,

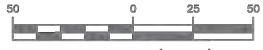


A handwritten signature in blue ink, appearing to be 'AR'.

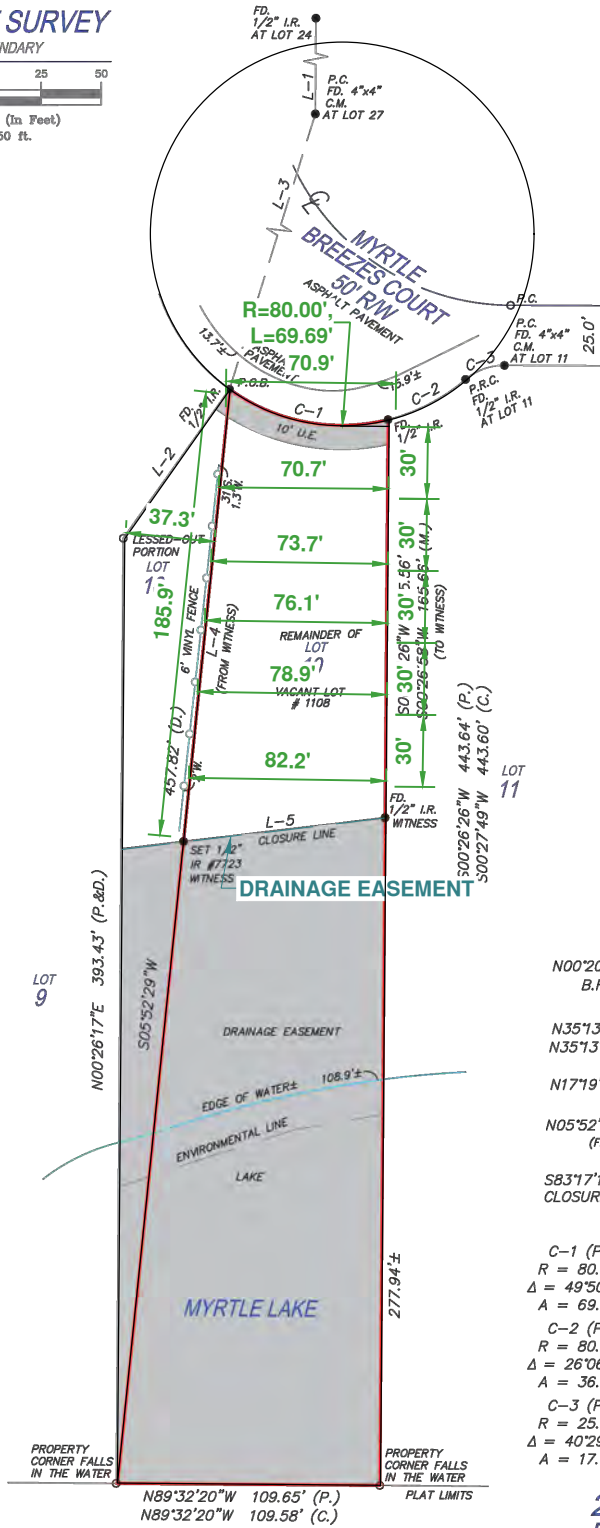
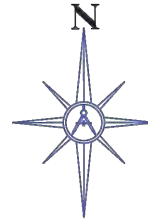
Angel L. Rivera, PE  
President

# SKETCH OF SURVEY

TYPE OF SURVEY: BOUNDARY



GRAPHIC SCALE (In Feet)  
1 inch = 50 ft.



|                      |                          |
|----------------------|--------------------------|
| L-1                  | N00°20'52"E 379.57' (P.) |
| B.R.                 | 379.99' (M.)             |
| L-2                  | N35°13'32"E 65.85' (P.)  |
|                      | N35°13'32"E 75.93' (D.)  |
| L-3                  | N17°19'21"E 141.55' (M.) |
| L-4                  | N05°52'29"E 209.42' (M.) |
|                      | (FROM WITNESS)           |
| L-5                  | S83°17'18"W 84.41' (M.)  |
|                      | CLOSURE LINE             |
| C-1 (P.)             | C-1 (M.)                 |
| R = 80.00'           | R = 80.00'               |
| $\Delta = 49°50'24"$ | $\Delta = 49°36'57"$     |
| A = 69.59'           | A = 69.28'               |
| C-2 (P.)             | C-2 (M.)                 |
| R = 80.00'           | R = 80.00'               |
| $\Delta = 26°06'05"$ | $\Delta = 26°13'11"$     |
| A = 36.44'           | A = 36.61'               |
| C-3 (P.)             | C-3 (M.)                 |
| R = 25.00'           | R = 25.00'               |
| $\Delta = 40°29'08"$ | $\Delta = 40°17'29"$     |
| A = 17.67'           | A = 17.58'               |

PROPERTY CORNER FALLS IN THE WATER  
 N89°32'20"W 109.65' (P.)  
 N89°32'20"W 109.58' (C.)  
 PARCEL ID:  
 17192400010000  
 PLAT LIMITS

**Legal Description:**

Lot 10 of Lake Myrtle Breezes, as shown on the plat Book 56 , Page(s) 95 and 96 , Public Records of Lake County, Florida. Less and Except that portion amended by the lot line deviation recorded in Official Records Book 3902, Page 307, Public Records of Lake County, described as follows: Begin at the Northwesterly corner of said Lot 10; thence run South 05°52 '29" West a distance of 457.82 feet to Southwest corner of said Lot 10, thence run North 0°26 '17" East along said West line of Lot 10 a distance of 393.43 feet , thence run North 35°16 '12" East a distance of 75.93 feet to the Point of Beginning.

**Property Address:**

1108 Myrtle Breezes Court, Fruitland Park, Florida 34731

**CITY OF FRUITLAND PARK  
STAFF REPORT BY LPG URBAN & REGIONAL PLANNERS, INC.**

**VARIANCE**

**Owner:** Eric Coe

**Applicant:** Angel L. Rivera, P.E. of A&B Engineering Consultants, P.A.

**General Location:** West of County Road 468 & south of Myrtle Lake Ave

**Number of Acres:** 0.33 ± acres

**Existing Zoning:** R-4 (Formerly R-2)

**Existing Land Use:** SFMD (Single-Family Medium Density Residential)

**Date:** August 19, 2022

**Description of Project**

On November 8, 2009 the City of Fruitland Park approved a lot line deviation between Lots 8, 9 and 10 pursuant to Chapter 157, Section 157.050. It appears that the lot line deviation was sought due to the existing construction of Lot 9 not meeting the side setbacks of 10'. After the lot line deviation, the remaining portion of Lot 10 indicates that the lot width does not meet the minimum requirement of the zoning district which requires 80' width at the building setback line on cul-de-sacs and curves pursuant to the City of Fruitland Park Land Development Regulations (LDRs), Chapter 154, Section 154.040. The lot width at the building setback line is 70'.

|              | <b>Surrounding Zoning</b> | <b>Surrounding Land Use</b> |
|--------------|---------------------------|-----------------------------|
| <b>North</b> | Lake County R-1 and R-3   | Lake County Urban Medium    |
| <b>South</b> | Lake County RP            | Lake County Urban Medium    |
| <b>East</b>  | Lake County R-1           | Lake County Urban Medium    |
| <b>West</b>  | Lake County A             | Lake County Urban Medium    |

**Assessment**

Review of the boundary survey indicates that there is 70' at the building setback line and

indicates that the front setback would need to be increased to approximately 160' to achieve the 80' width requirement. Taking into consideration rear and side setbacks, the buildable area for a home and accessory structures would be approximately 60' x 25', which is not sufficient.

The R-4 zoning district requires a minimum lot size of 12,500 square feet with central water and septic tank. The subject lot was platted at 18,146 square feet (0.42 acres) and due to the approved lot line deviation, the lot is now approximately 14,374 square feet (0.33 acres) which exceeds the minimum required.

When reviewing an application for a variance, the Planning and Zoning Board and the City Commission shall consider the following requirements and criteria:

- 1) **Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same zoning district;**

*Special conditions and circumstances appear to exist. A lot line deviation was previously approved by the City of Fruitland Park to accommodate the property owner of Lot 9 which appears to be as a result of construction of a single-family home too close to the side lot line (7' vs 10').*

- 2) **The special conditions and circumstances are not the results of actions of the applicant and/or registered property owner;**

*The lot line deviation occurred by a previous property owner and is not the result of the actions of the current property owner.*

- 3) **Literal interpretation and enforcement of the Land Development Code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Land Development Code, and would work unnecessary undue hardship on the applicant;**

**The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building or structure;**

*The variance, if granted is the minimum variance necessary to make possible the reasonable use of the lot as a buildable lot with a front setback of 30' and a lot width of 70'.*

- 4) **Granting of the variance request will not confer on the applicant any special privilege that is denied by the Land Development Code to other lands, buildings or structures in the same zoning district; and**

*Granting of the variance request would not confer on the applicant any special privilege.*

5) **The granting of the variance will be in harmony with the general intent and purpose of the Land Development Code, and will not be injurious to the surrounding properties or detrimental to the public welfare.**

*Granting of the variance would not be injurious to the surrounding property owner or detrimental to the public welfare.*

**Recommendation**

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Staff recommends approval of the variance.

**CITY OF FRUITLAND PARK**  
**AGENDA ITEM SUMMARY SHEET**  
**Item Number: 9j**

**ITEM TITLE:** Quasi-Judicial Public Hearing - Resolution 2022-062  
Unity of Title Indivisible Building Site 305 CR 466A –  
Petitioner: T.D. Burke

**MEETING DATE:** November 10, 2022

**DATE SUBMITTED:** October 24, 2022

**SUBMITTED BY:** City Attorney/City Manager/Community Development  
Director

**BRIEF NARRATIVE:** Owner, via the applicant Jose Kreutz of Luxury Leased Homes USA, LLC, is requesting a unity of title for two parcels: Alternate Keys: 1699649 (4.57± acres) and 3884325 (14.98± acres). The applicant is proposing development of a 240 multi-family apartment complex. Annexation, comprehensive plan amendment, rezoning, and planned development applications were approved during the Planning and Zoning Board meeting held on November 3, 2022.

**FUNDS REQUIRED:** None

**ATTACHMENTS:** Proposed Resolution 2022-062, Notice of Declaration of Unity of Title. (See Agenda Item 9f for legal description, map, affidavit, and October 14, 2022 staff report.)

**RECOMMENDATION:** Staff recommends approval of Resolution 2022-062.

**ACTION:** **Adopt Resolution 2022-062.**



## RESOLUTION 2022-062

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A DECLARATION OF UNITY OF TITLE UNIFYING AS AN INDIVISIBLE BUILDING SITE, TWO PROPERTIES LOCATED AT 305 COUNTY ROAD 466-A, FRUITLAND PARK, FLORIDA, OWNED BY T.D. BURKE AND IDENTIFIED BY THE LAKE COUNTY PROPERTY APPRAISER AS ALTERNATE KEY NUMBER 3884325 AND ALTERNATE KEY NUMBER 1699649; PROVIDING FOR A DECLARATION OF UNITY OF TITLE TO BE RECORDED IN THE PUBLIC RECORDS OF LAKE COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, T. D. Burke owns 2 parcels of real property more particularly described below which it desires to unify as one indivisible building site; and

**WHEREAS**, it is necessary to authorize the Mayor of the City of Fruitland Park to execute the necessary document to effectuate the unity of title.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1. Authorization.**

The Mayor is authorized to execute the Declaration of Unity of Title attached hereto for the purpose of unifying the real property more particularly described below.

**LEGAL DESCRIPTION:**

**PARCEL A**

**The West ½ of the Northeast ¼ of the Southwest ¼ of Section 6, Township 19 South, Range 24 East.**

**TOGETHER WITH**

**PARCEL B**

**INSERT LEGAL DESCRIPTION**

**Section 2. Recording of Notice.** The Mayor or designee is directed to record the Declaration of Unity of Title, **a copy of which is attached hereto**, in the public records of Lake County, Florida, and provide a copy to the Lake County Property Appraiser.

**Section 3. Effective Date.**

This resolution shall become effective immediately upon its passage.

PASSED and ADOPTED at a regular meeting of the City Commission of the City of Fruitland Park, Lake County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

SEAL

CITY COMMISSION OF THE CITY OF  
FRUITLAND PARK, FLORIDA

\_\_\_\_\_  
CHRIS CHESHIRE, MAYOR

ATTEST:

\_\_\_\_\_  
ESTHER COULSON, CITY CLERK, MMC

Mayor Cheshire \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Vice Chairman Gunter \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Commissioner Bell \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Commissioner DeGrave \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Commissioner Mobilian \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)

Approved as to form:

\_\_\_\_\_  
Anita Geraci-Carver, City Attorney

**Record and Return to:  
City of Fruitland Park  
506 W Berckman St.  
Fruitland Park, FL 34731**

## **NOTICE OF DECLARATION OF UNITY OF TITLE**

This Declaration of Unity of Title, made this \_\_\_\_ day of \_\_\_\_\_, 2022, by T.D. BURKE, having an address of P.O. BOX 816, Fruitland Park, FL 34731-0816, hereinafter referred to as the “Declarant” being the fee owner of the following described real property located in Lake County, Florida:

Alt. Key Numbers: **3884325 & 1699649**

Parcel Id. Numbers: 06-19-24-0003-000-08500 and 06-19-24-0003-000-01600

**LEGAL DESCRIPTION:**

Hereby makes the following declarations of condition, limitation, and restriction on the Property, hereinafter to be known and referred to as a Declaration of Unity of Title, as to the following particulars:

1. That the afore-described plot of, or combination of separate lots, plots, parcels, acreage or portions thereof, shall hereafter be declared to be unified under one title as an indivisible building site. **See attached Sketch of Description.**
2. That the Property shall henceforth be considered as one plot or parcel of land, and that no portion thereof shall be sold, assigned, transferred, conveyed or devised separately except in its entirety as one plot or parcel of land.
3. The purpose of unity is to unify as one indivisible building site for construction thereon.

Declarant further agrees that this Declaration of Unity of Title shall constitute a covenant to run with the land, as provided by law, and shall be binding upon the Declarant, its successors and assigns, and all parties claiming under such parties until such time as the same be released in writing by the City of Fruitland Park, a Florida municipality of the

State of Florida. Declarant also agrees this Declaration of Unity of Title shall be recorded in the Public Records of Lake County, Florida.

IN WITNESS WHEREOF, Declarant has executed this instrument in the manner provided by law on the day and year above written. Signed, sealed, and delivered in our presence as witnesses:

WITNESSES

**CITY OF FRUITLAND PARK**

\_\_\_\_\_  
Signature of Witness #1

\_\_\_\_\_  
Chris Cheshire, Mayor

\_\_\_\_\_  
Print Name of Witness #1

Attest:

\_\_\_\_\_  
Signature of Witness #2

\_\_\_\_\_  
Esther Coulson, City Clerk

\_\_\_\_\_  
Print Name of Witness #2

**State of Florida**  
**County of Lake**

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2022, by Chris Cheshire, as Mayor of the City of Fruitland Park, a Florida municipal corporation on behalf of the corporation. He is  personally known to me or who produced \_\_\_\_\_ as identification.

Notary Stamp:

\_\_\_\_\_  
Signature of Notary

**CITY OF FRUITLAND PARK**  
**AGENDA ITEM SUMMARY SHEET**  
Item Number: 10a

**ITEM TITLE:** CITY MANAGER’S REPORT

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Tuesday, **November 1**, 2022

**SUBMITTED BY:** City Manager

**BRIEF NARRATIVE:** City Manager’s Report

(i) Economic Development Status Update

(ii) LCWA 2022-023 Cooperative Stormwater Initiative

**FUNDS REQUIRED:** None

**ATTACHMENTS:**

**RECOMMENDATION:** October 24, 2022 LCWA letter

**ACTION:** None



**Lake County  
WATER AUTHORITY**

Ben Garcia, Executive Director

Gary J. Cooney, Secretary - Treasurer

27351 SR 19 • Tavares, Florida 32778-4251 • (352) 324-6141 • Fax (352) 324-6364 • email: info@lcwa.org • www.lcwa.org

October 24, 2022

Mr. Chris Cheshire  
Mayor  
City of Fruitland Park  
506 W. Berckman Street  
Fruitland Park, FL 34731

Dear Mr. Cheshire,

The Lake County Water Authority is contacting you to make you aware of funding that is available through our **2022-2023 Cooperative Stormwater Initiative**. This will be the twenty-third consecutive year of the program and we continue to gain significant ground reducing Lake County’s stormwater problem. This year, we have made \$1,000,000 available for new projects.

Although we are making significant improvements, Lake County’s stormwater problem will take many more years to correct and will require continued cooperative efforts of multiple agencies. Your agency’s help in identifying and funding projects that eliminate direct stormwater outfalls is of the utmost importance. The cooperative funding application can be found and downloaded on our website at [www.lcwa.org](http://www.lcwa.org). I would encourage you to take this opportunity to stay ahead of any mandatory stormwater discharge regulations that may come about as a result of the Total Maximum Daily Load (TMDL) criteria established by the Florida Department of Environmental Protection. The program is not intended to fund the treatment of any new or re-developed areas to meet local, state, or federal stormwater permitting requirements.

Thank you for your interest in assisting the Lake County Water Authority with its mission to reduce direct stormwater discharge to our surface waters. We look forward to working with you in the future! If you have any questions or assistance with the application please call our main office at 352-324-6141; extension 0.

Sincerely,

Jason Danaher  
Water Resources Director

**BOARD OF TRUSTEES**

District One  
**Marty Proctor**

District Two  
**Trampis BonJorn**

District Three  
**Birdie Zenishek**

District Four  
**Butch Hendrick**

District Five  
**Rick Donohue**

**CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 10b**

|                         |                                    |
|-------------------------|------------------------------------|
| <b>ITEM TITLE:</b>      | <b>City Attorney Report</b>        |
| <b>MEETING DATE:</b>    | <b>Thursday, November 10, 2022</b> |
| <b>DATE SUBMITTED:</b>  | Thursday, November 3, 2022         |
| <b>SUBMITTED BY:</b>    | City Attorney                      |
| <b>BRIEF NARRATIVE:</b> | <b>City Attorney Report</b>        |

**City of Fruitland Park v. State of Florida – Department of Management Services:** On February 16, 2022, the city provided wages and FRS calculations to attorney Thomas. The insurance company was provided the full invoice amount. The insurance company is communicating directly with the Department of Management Services as to the amount due. Work consistent with direction of the commission continues.

**Michael and Laurie Fewless v. City of Fruitland Park, Lake County Case No. 2020-CA-000104 (Judge Welke):** On December 9, 2021, Plaintiff filed an Amended Complaint. Pre-trial conference is scheduled for April 3, 2023 and trial on April 17, 2023. On August 18, 2022, Plaintiffs served the city with a Proposal for Settlement a copy of which has been provided to the commission. On August 31, 2022, Attorney Thomas provided information requested by the city’s insurance company. Work consistent with direction of the commission continues.

**U.S. Bank National Association v. Robert Moore and City of Fruitland Park, Lake County Case No. 2022-CA-00845 (Judge Baxley):** The property owner’s lender is foreclosing on the property for non-payment of approximately \$33,204.15. The property is located at 412 Sunny Court, Fruitland Park. The city has a code enforcement lien on the property. As of June 17, 2022, the fines have accrued to \$23,350.00 and outstanding costs of \$117.04. Attorney Mark K. McCulloch, Roper & Roper, P.A. has been appointed by the city’s insurance company to defend the city. The city’s Answer to the Complaint was filed June 22, 2022. On June 23, 2022, Judge Baxley entered a Differentiated Civil Case Management Order as to Streamlined case types. The Order requires a non-jury trial to occur no later than 12 months from filing the original Complaint, if not sooner resolved. The trial must be held by May 10, 2023. On July 29, 2022, the Plaintiff’s Motion for Leave to Amend Complaint was granted by the Court. Plaintiff is in the process of publishing a notice of action in the newspaper relating to Robert Moore, deceased, and unknown parties.

**Wayne Goodridge and Tammy Goodridge v. City of Fruitland Park, Lake County Case No. 2022-CA-1628:** The city was served with a lawsuit on September 8, 2022. A copy has been provided to the commission. Plaintiffs file a two-count Verified Complaint. Count I – Inverse Condemnation and Count II – Trespass. Plaintiffs allege the city’s construction of the library has caused storm water to flood across Rose Avenue onto their property located at 100 Rose Avenue, Fruitland Park and have converted their property into a storm water retention system. Public Risk Management (PRM) retained attorney Donovan A. Roper and Mark K. McCulloch of Roper &



Roper, P.A. to defend the city. An answer and affirmative defenses were filed on behalf of the city. On October 27, 2022, Plaintiff filed a reply to the city's affirmative defenses.

**Code of Ordinances Codification:** Staff is in process of providing input on the various outstanding items. Once all input has been received, responses can be provided to CivicPlus so the final manuscript can be provided for adoption.

**FUNDS REQUIRED:** No

**ATTACHMENT** None

**RECOMMENDATION:** N/A

**ACTION:** N/A

CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 12

**ITEM TITLE:** Public Comments

**MEETING DATE:** Thursday, November 10, 2022

**DATE SUBMITTED:** Monday, October 31, 2022

**SUBMITTED BY:** City Clerk

**BRIEF NARRATIVE:** **Item Description:** This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Action may not be taken by the city commission at this meeting; however, questions may be answered by staff or issues may be referred for appropriate staff action.

Note: Pursuant to F.S. 286.0114 and the City of Fruitland Park's Public Participation Policy adopted by Resolution 2013-023, members of the public shall be given a reasonable opportunity to be heard on propositions before the city commission. Accordingly, comments, questions, and concerns regarding items listed on this agenda shall be received at the time the City Commission addresses such items during this meeting. Pursuant to Resolution 2013-023, public comments are limited to three minutes.

**FUNDS REQUIRED:** None

**ATTACHMENTS:** Resolution 2013-023, Public Participation Policy and Chapter 286 Florida Statutes

**RECOMMENDATION:** None

**ACTION:** None

**RESOLUTION 2013 -023**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, PROVIDING FOR A PUBLIC PARTICIPATION POLICY WITH REGARD TO MEETINGS OF CITY BOARDS AND COMMISSIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission wishes to adopt a public participation policy for meetings of the City's boards and commissions; and

**WHEREAS**, the City Commission accordingly desires to pass this Resolution 2013-023 to do so.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AS FOLLOWS:**

**Section 1.** The following Public Participation Policy shall apply to meetings of City boards or commissions as provided herein.

Sec. 1.        Citizen's Rights

(a)        Definition.        For the purposes of this section, "board or commission" means a board or commission of the City of Fruitland Park.

(b)        Right to be Heard: Members of the public shall be given a reasonable opportunity to be heard on a proposition before a City board or commission except as provided for below. Public input shall be limited to three (3) minutes. This right does not apply to:

1.        An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board or commission to act;
2.        An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
3.        A meeting that is exempt from §286.011; or
4.        A meeting during which the Commission is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.

Sec. 2.        Suspension and Amendment of these Rules

(a)        Suspension of these Rules: Any provision of these rules not governed by the City Charter or City Code may be temporarily suspended by a vote of a majority of the Commission.

(b)        Amendment of these Rules: These rules may be amended or new rules adopted by resolution.

- (c) Effect of Variance from Rules: The failure to follow this Public Participation Policy shall not be grounds for invalidating any otherwise lawful act of the City's boards or commissions.

**Section 2.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Resolution.

**Section 3.** This Resolution shall become effective immediately upon passage.

**RESOLVED** this 26 day of September, 2013, by the City Commission of the City of Fruitland Park, Florida.



Christopher J. Bell, Mayor

ATTEST:

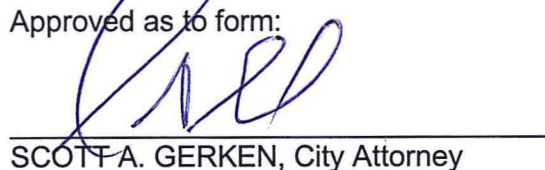


MARIE AZZOLINO, Acting City Clerk

Passed First Reading 9/26/2013

Passed Second Reading N/A

Approved as to form:



SCOTT A. GERKEN, City Attorney

Select Year:  

## The 2020 Florida Statutes

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[Title XIX](#)[Chapter 286](#)[View Entire Chapter](#)

## PUBLIC BUSINESS

## PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS

**286.0114 Public meetings; reasonable opportunity to be heard; attorney fees.—**

(1) For purposes of this section, “board or commission” means a board or commission of any state agency or authority or of any agency or authority of a county, municipal corporation, or political subdivision.

(2) Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decisionmaking process and is within reasonable proximity in time before the meeting at which the board or commission takes the official action. This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting. The opportunity to be heard is subject to rules or policies adopted by the board or commission, as provided in subsection (4).

(3) The requirements in subsection (2) do not apply to:

(a) An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board or commission to act;

(b) An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;

(c) A meeting that is exempt from s. [286.011](#); or

(d) A meeting during which the board or commission is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.

(4) Rules or policies of a board or commission which govern the opportunity to be heard are limited to those that:

(a) Provide guidelines regarding the amount of time an individual has to address the board or commission;

(b) Prescribe procedures for allowing representatives of groups or factions on a proposition to address the board or commission, rather than all members of such groups or factions, at meetings in which a large number of individuals wish to be heard;

(c) Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her support, opposition, or neutrality on a proposition; and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses; or

(d) Designate a specified period of time for public comment.

(5) If a board or commission adopts rules or policies in compliance with this section and follows such rules or policies when providing an opportunity for members of the public to be heard, the board or commission is deemed to be acting in compliance with this section.

(6) A circuit court has jurisdiction to issue an injunction for the purpose of enforcing this section upon the filing of an application for such injunction by a citizen of this state.

(7)(a) Whenever an action is filed against a board or commission to enforce this section, the court shall assess reasonable attorney fees against such board or commission if the court determines that the defendant to such action acted in violation of this section. The court may assess reasonable attorney fees against the individual filing such an

action if the court finds that the action was filed in bad faith or was frivolous. This paragraph does not apply to a state attorney or his or her duly authorized assistants or an officer charged with enforcing this section.

(b) Whenever a board or commission appeals a court order that has found the board or commission to have violated this section, and such order is affirmed, the court shall assess reasonable attorney fees for the appeal against such board or commission.

(8) An action taken by a board or commission which is found to be in violation of this section is not void as a result of that violation.

**History.**—s. 1, ch. 2013-227.

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