WINTER HAVEN
THE CHAIN OF LAKES CITY

CITY COMMISSION MEETING

DATE: Monday, December 9, 2024, 6:00 p.m.

LOCATION: City Hall - John Fuller Auditorium
451 Third Street NW
Winter Haven, FL 33881

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1. **CALL TO ORDER** - Nathaniel J. Birdsong, Jr., Mayor

2. **ROLL CALL** - Vanessa Castillo, MMC, City Clerk

3. **INVOCATION** - Father Paul Head, St. Paul's Episcopal Church

4. **PLEDGE OF ALLEGIANCE** - Vanessa Castillo, MMC, City Clerk

5. **PRESENTATIONS**

   5.A **"BayCare Winter Haven" Proclamation - Diane Gibbs, BayCare Winter Haven Director of Operations and Tom Garthwaite, BayCare Winter Haven President**

   Staff Contact: *LaTonya Harris, City Historian & Archivist | Deputy City Clerk, lharris@mywinterhaven.com*

   Proclamation

6. **DEVELOPMENTS OF NOTE**

7. **MINUTES**

   7.A **October 28, 2024, Regular City Commission Meeting Minutes**

   Staff Contact: *Vanessa Castillo, MMC, City Clerk, vcastillo@mywinterhaven.com*

   2024-10-28 DRAFT Regular City Commission Meeting Minutes with Link

   7.B **November 6, 2024, City Commission Agenda Review Session Meeting Minutes**

   Staff Contact: *Vanessa Castillo, MMC, City Clerk, vcastillo@mywinterhaven.com*

   2024-11-06 DRAFT Agenda Review Session Minutes with Link

8. **COMMENTS FROM THE AUDIENCE**

9. **ORDINANCE(S) - SECOND READING - PUBLIC HEARING**

   9.A **O-24-53 - Request by Paul William Schulz Revocable Trust to rezone a parcel from Planned Unit Development (PUD) zoning district to Single Family Residential- Large Lot (R-1) zoning district. (4020 Country Club Road, South)**

Staff Contact: *Heather Reuter, Senior Planner, hreuter@mywinterhaven.com*

Summary - Ordinance O-24-53
O-24-53

9.B **O-24-54 - Request by the Peace Creek Village Community Development District to expand the boundaries of the Peace Creek Village Community Development District**

Staff Contact: *Sean Byers, Planning Manager, sbyers@mywinterhaven.com*

Summary - Ordinance O-24-54
O-24-54
Affidavit and Pre-filed Testimony David Matt
Affidavit and Pre-filed Testimony Steve Sloan
Affidavit and Pre-filed Testimony Craig Wrathell

10. CONSENT AGENDA

10.A **SHIP Annual Incentive Strategies Report 2024**

Staff Contact: *Diane Durr, Affordable Housing Programs Manager, ddurr@mywinterhaven.com*

Summary Report - SHIP Annual Incentives Strategies Report 2024
SHIP Annual Incentive Report 2024

10.B **Recommendation of Award RFQ-24-42 Banking Depository Services**

Staff Contact: *CJ Scott, Chief Financial Officer, cjscott@mywinterhaven.com*

Summary - Recommendation of Award RFQ-24-42 Banking Depository Services
RFQ-24-42 Bid Tab Sheet
RFQ-24-42 Banking Depository Services - ROA

10.C **Authorization for Travel and Training: Florida Black Caucus of Local Elected Officials (FBC-LEO) 2025 Spring Conference (Birdsong & Dollison)**

Staff Contact: *AJ Nicholson, Assistant to the City Manager, anicholson@mywinterhaven.com*

Summary - FBC-LEO 2025 Conference
2025 FBC-LEO Conference Agenda

10.D **Authorization for Travel and Training: Florida City & County Managers Association (FCCMA) Winter Conference (Stavres & Carnevale)**

Staff Contact: *AJ Nicholson, Assistant to the City Manager, anicholson@mywinterhaven.com*

Summary - FCCMA January 2025 Conference

10.E **Approval of an Equipment Purchase Agreement for Remote Digital Tower equipment between Frequentis USA, Inc. and the City of Winter Haven**

Staff Contact: *Troy Heidel, Airport Director, theidel@mywinterhaven.com*

Summary Report - Equipment Purchase Agreement for Remote Digital Tower
Frequentis Equipment Purchase Agreement

10.F **Purchase of Illumio Zero Trust Segmentation (ZTS) Software Platform Subscription from SHI (Somerset, NJ)**

Staff Contact: *Hiep Nguyen, Smart City Officer, hnguyen@mywinterhaven.com*

Summary - Illumio Zero Trust Segmentation Software Platform

Illumio Quote from SHI
SHI International Corp. - Sourcewell Participation Agreement

10.G **Approval of OpenGov Cartegraph Software Renewal Agreement, Adding Budgeting and Planning Solution (San Francisco, CA)**

Staff Contact: *Hiep Nguyen, Smart City Officer, hnguyen@mywinterhaven.com*

Summary - OpenGov Renewal and Budgeting and Planning Solution
Three year 2024-2027 OpenGov Cartegraph Renewal
OpenGov Form Addendum
Form Purchasing Affidavits

10.H **Purchase of Public Works Equipment**

Staff Contact: *Brittany Hart, Public Works Director, bhart@mywinterhaven.com*

Summary - Purchase of Public Works Equipment
Sourcewell Participation Agreement - Volvo Construction Equipment
Sourcewell Participation Agreement - Altec Industries
Alta Construction Equipment Quote - Volvo L90H2 Wheel Loader
Altec Industries Quote - Altec LR860 Boom Truck

10.I **Urban Forest Master Plan Implementation Services (RFQ-24-24)**

Staff Contact: *Brittany Hart, Public Works Director, bhart@mywinterhaven.com*

Summary - Urban Forest Master Plan Services

10.J **Logistics Parkway/Pollard Rd. Extension, Kimley-Horn, Design and permitting Amendment #6**

Staff Contact: *Gary M. Hubbard, Water Department Director, ghubbard@mywinterhaven.com*

Summary - Logistics Parkway Extension Kimley-Horn Amendment #6
Kimley-Horn Amendment No. 6
Change Order Authorization Form

10.K **Award of ITB-24-44 for Directional Drilling Services**

Staff Contact: *Gary M. Hubbard, Water Department Director, ghubbard@mywinterhaven.com*

Summary - Award of ITB-24-44 for Directional Drilling Services
ITB-24-44 Bid Tab Sheet
ITB-24-44 Recommendation of Award

10.L **State Financial Assistance Drone Replacement Program**

Staff Contact: *Donald Nunnery, Captain, dnunnery@mywinterhaven.com*

Summary - State Financial Assistance Drone Replacement Program
Drone Replacement Program Financial Assistance Agreement
Axon Quote
Sole Source Information

10.M **Access Easement Agreement - 4750 Lucerne Park Road (SR 544)**

Staff Contact: *Charlie Bird, Assistant City Manager - Public Safety, cbird@mywinterhaven.com*

Summary - Access Easement Agreement
Access Easement Agreement

11. RESOLUTION(S)

11.A **R-24-53 - Approval of a Public Transportation Grant Agreement with the Florida Department of Transportation (FDOT) for Obstructions Clearing**

Staff Contact: *Troy Heidel, Airport Director , theidel@mywinterhaven.com*

Summary - R-24-53 Approval of a Public Transportation Grant Agreement
R-24-53 with Exhibit A
Public Transportation Grant Agreement - G3639

11.B **R-24-54 - Request by KRPC Willowbrook, LLC for final plat approval of the Willowbrook South Subdivision. General Location: Subdivision is generally located north of Martin Luther King Jr. Boulevard and south of the Lake Fannie/Lake Smart Canal.**

Staff Contact: *Chris Young, Senior Planner, cyoung@mywinterhaven.com*

Summary - Resolution R-24-54
R-24-54

12. ORDINANCE(S) - FIRST READING

13. NEW BUSINESS

13.A **Authorization to submit a grant application to the Florida Department of Commerce for construction of a rail spur**

Staff Contact: *Eric Labbe, Economic Opportunity and Community Investment Director, elabbe@mywinterhaven.com*

Summary - Department of Commerce Grant Application
SBD Public Infrastructure Applicant User Guide

14. CITY COMMISSIONERS/LIAISON REPORTS

15. CITY ATTORNEY REPORT

16. CITY MANAGER REPORT

17. DEPUTY CITY MANAGER REPORT

18. CITY CLERK REPORT

19. EMERGENCY MATTERS NOT RECEIVED FOR THE AGENDA

20. ADJOURNMENT

If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings, and that, for such purpose, they may need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105). In accordance with the Americans with Disabilities Act and Florida Statutes, Section 286.26, persons with disabilities needing special accommodations to participate in this proceeding, should contact the City Clerk's Office, 451 Third Street, NW, Winter Haven, Florida 33881, in writing, not later than 48 hours prior to the proceeding; if not in writing, then not later than four (4) days prior to the proceeding at (863) 291-5600. Vision or hearing impaired please call (800) 955-8771 for assistance.

WINTER HAVEN
THE CHAIN OF LAKES CITY

Proclamation

WHEREAS, Winter Haven Hospital was founded in 1926 and has been a staple in our community; and

WHEREAS, BayCare acquired Winter Haven Hospital on August 30, 2013 and continues to provide quality care and service to the residents of Winter Haven; and

WHEREAS, hospitals and healthcare workers are vital in the maintenance of health and well-being of our communities. BayCare Winter Haven has 447 beds and in 2023, their emergency department had 77, 000+ visits; and

WHEREAS, BayCare Winter Haven continued to serve and provide medical care and emergency services during Hurricane Milton; and

WHEREAS, we recognize their commitment to meeting the needs of our citizens during blue skies and grey skies as well as their delivery of services during emergencies such as Hurricane Milton.

NOW, THEREFORE, I, Nathaniel J. Birdsong, Jr., Mayor of the City of Winter Haven, Florida, on behalf of the City Commission and our community, do hereby express our sincerest appreciation and gratitude to BayCare Winter Haven and the dedicated hospital staff and healthcare workers who went above and beyond in spite of challenging circumstances and recognize their warm compassion for our community.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Winter Haven, Florida, to be affixed this 9th day of December, 2024.



Nathaniel J. Birdsong, Jr.
Nathaniel J. Birdsong, Jr., Mayor

ATTEST:
Vanessa Castillo
Vanessa Castillo, MMC, City Clerk

WINTER HAVEN
THE CHAIN OF LAKES CITY

REGULAR CITY COMMISSION MEETING MINUTES

DATE: Monday, October 28, 2024, 6:00 p.m.

LOCATION: City Hall – John Fuller Auditorium
451 Third Street NW, Winter Haven, FL 33881

NOTE:
PowerPoint slides of certain agenda items were also presented during this meeting. Link to PowerPoint here:
https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:2addd420-e723-4c7b-9a55-366f6aa0ba98
A hard copy of the PowerPoint will be attached to the original signed minutes.

1. **CALL TO ORDER** - Mayor Birdsong called the regular meeting to order at 6:00 p.m.

2. **ROLL CALL** - Vanessa Castillo, MMC, City Clerk

Commissioners Present: Mayor Nathaniel Birdsong; Mayor Pro Tem Brian Yates; Commissioner Brad Dantzler; Commissioner Tracy Mercer; and Commissioner Clifton Dollison.

Staff Present: City Manager T. Michael Stavres; Deputy City Manager Michael "M.J" Carnevale; City Attorney John Murphy; City Clerk Vanessa Castillo; Assistant City Manager for Public Safety Charlie Bird; Police Chief Vance Monroe; Economic Opportunity and Community Investment Director Eric Labbe; Parks, Recreation and Culture Director Julie Adams; Public Affairs and Communications Director Katrina Hill; Chief Financial Officer Colleen "C.J." Scott; and Public Works Director Brittany Hart.

3. **INVOCATION** – Pastor George Gasperson, Christ Community Church

4. **PLEDGE OF ALLEGIANCE** – Vanessa Castillo, MMC, City Clerk

5. **PRESENTATION(S)**

A. City University Class 3 Graduation

Public Affairs and Communications Director Hill gave an overview of this item and a *CityU Class 3 Graduation* PowerPoint presentation *(see attached/link)* going over the slides in more detail. She discussed what the graduates had been through and the sessions they attended in more detail. Graduates were each called upon, given a certificate of completion, and photographed with the Commission, City Manager Stavres, and Deputy City Manager Carnevale.

6. **DEVELOPMENTS OF NOTE** – None

7. **MINUTES**

A. August 26, 2024, Regular City Commission Meeting Minutes

B. September 4, 2024, Special City Commission Workshop Meeting Minutes

C. September 4, 2024, City Commission Agenda Review Session Meeting Minutes

D. September 10, 2024, Regular City Commission Meeting Minutes

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E. September 18, 2024, City Commission Agenda Review Session Meeting Minutes

F. September 23, 2024, Regular City Commission Meeting Minutes

G. October 7, 2024, Special City Commission Meeting Minutes

Motion by Commissioner Dantzler to approve the minutes as presented.

Mayor Birdsong stated that anyone wishing to speak to the minutes could make comments now by coming to the podium and stating their name and address for the record and make comments. No one spoke for or against.

Motion carried 5:0.

8. COMMENTS FROM THE AUDIENCE – None

9. ORDINANCE(S) – SECOND READING – PUBLIC HEARING

A. O-24-30 - Request by Peterson and Myers, PA to assign Neighborhood Suburban Future Land Use to an annexed parcel

City Attorney Murphy read Ordinance O-24-30 by title only. Economic Opportunity and Community Investment Director Labbe presented and said this was a companion to Ordinance O-24-31 (Item 9B).

Motion by Commissioner Mercer to approve Ordinance O-24-30 on second reading – public hearing.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Ordinance may come to the podium and state their name and address for the records.

Shelton Rice, Attorney at Peterson and Myers, P.A. at 225 E. Lemon Street in Lakeland and on behalf of the applicant, gave background on this item and said he was available to answer any questions.

Mayor Birdsong closed the Public Hearing and reopened the Regular City Commission Meeting.

Discussion ensued regarding access points, ingress, egress, the connection on Ware Avenue, and that this item was about land use, but the next item was quasi-judicial.

Motion carried 5:0.

B. O-24-31 - Request by Peterson and Myers, PA to assign Multi-Family Residential- Low Density (R-3) zoning district to an annexed parcel

City Attorney Murphy read Ordinance O-24-31 by title only and Mayor Birdsong said this had already been presented under item 9A.

Motion by Mayor Pro Tem Yates to approve Ordinance O-24-31 on second reading – public hearing.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Ordinance may come to the podium and state their name and address for the records.

Mr. Rice gave additional points and clarified that the number of units was 203, which was less than what Director Labbe had mentioned. He also explained why the zoning being requested was appropriate.

Mayor Birdsong closed the Public Hearing and reopened the Regular City Commission Meeting.

Motion carried 4:1 with Commissioner Dantzler voting no.

C. O-24-45 - Request by Claussen Trust to assign Neighborhood Support Future Land Use to an annexed parcel (2400 Avenue E, SW)

City Attorney Murphy read Ordinance O-24-45 by title only and City Manager Stavres presented.

Motion by Commissioner Mercer to approve Ordinance O-24-45 on second reading – public hearing.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Ordinance may come to the podium and state their name and address for the records.

Sarah Case, Owner of Next Level Planning and Permitting at 3825 South Florida Avenue, Suite 4 in Lakeland and on behalf of the applicant, gave background on this item and said she was available for any questions.

Discussion ensued if there were any public comments made at the Planning Commission Meeting.

Mayor Birdsong closed the Public Hearing and reopened the Regular City Commission Meeting.

Motion carried 5:0.

D. O-24-46 - Request by Claussen Trust to assign Commercial- Highway (C-3) zoning district to an annexed parcel (2400 Avenue E, SW)

City Attorney Murphy read Ordinance O-24-46 by title only and Mayor Birdsong said this had already been presented under companion ordinance O-24-45 (Item 9C).

Motion by Mayor Pro Tem Yates to approve Ordinance O-24-46 on second reading – public hearing.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Ordinance may come to the podium and state their name and address for the records. No one spoke for or against.

Mayor Birdsong closed the Public Hearing and reopened the Regular City Commission Meeting.

Motion carried 5:0.

E. O-24-47 - Request by AdventHealth Polk North, Inc. to amend Planned Unit Development Ordinance O-22-54 (6945 Cypress Gardens Boulevard)

City Attorney Murphy read Ordinance O-24-47 by title only and City Manager Stavres presented.

Motion by Commissioner Mercer to approve Ordinance O-24-47 on second reading – public hearing.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Ordinance may come to the podium and state their name and address for the records. No one spoke for or against.

Mayor Birdsong closed the Public Hearing and reopened the Regular City Commission Meeting.

Discussion ensued regarding brightness of the signage, that there was no specific timeline for the AdventHealth hospital, possible cost sharing on lights, future signalization, and the capacity of the emergency room.

Tim Campbell, Attorney at Clark, Campbell, Lancaster, Workman & Airth, P.A. at 500 S. Florida Avenue, Suite 800 in Lakeland and speaking on behalf of AdventHealth, said he also did not know the timeline, however from a business perspective they were excited about the number of trips and patients able to be served. The hospital had chosen Winter Haven and this site due to the growing population so they were working on signalization issues, which he discussed in more detail.

Motion carried 5:0.

F. O-24-48 - Administrative request to amend the Potable Water Sub-element of the 2035 Winter Haven Comprehensive Plan for the purpose of revising Policy 1.1.2 relating to potable water Level of Service (LOS) standards and to amend Sanitary Sewer Sub-element Policy 1.1.2 relating to sanitary sewer LOS standards

City Attorney Murphy read Ordinance O-24-48 by title only and City Manager Stavres presented.

Motion by Commissioner Mercer to approve Ordinance O-24-48 on second reading – public hearing.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Ordinance may come to the podium and state their name and address for the records. No one spoke for or against.

Mayor Birdsong closed the Public Hearing and reopened the Regular City Commission Meeting.

Motion carried 5:0.

10. CONSENT AGENDA

A. Rowdy Gaines Olympic Pool Renovations Task Order & Limited Construction Administration Task Order

B. Department of Energy EECBG Grant Application - Purchase of GEM Vehicles

C. Purchase of (3) Solid Waste Lightening Loader (Claw Truck) Vehicles

D. Authorization for Travel and Training: International City Manager's Association (ICMA) Local Government Reimagined Conference (Stavres)

Motion by Mayor Pro Tem Yates to approve the Consent Agenda as presented.

Mayor Birdsong stated anyone wishing to speak to the consent agenda could come to the podium and state their name and address for the record. No one spoke for or against.

Motion carried 5:0.

11. RESOLUTION(S) – None

12. ORDINANCE(S) - FIRST READING – None

13. NEW BUSINESS – None

14. CITY COMMISSIONERS/LIAISON REPORTS

Commissioner Dantzler reported the following: attended the *Bee Gees Tribute Concert* at the Historic Ritz Theatre and asked [Theatre Winter Haven (TWH) Producing Director] Dan Chesnika who would be giving the TWH and Ritz Theatre updates at the November 12, 2024, Regular City Commission Meeting; attended the [Leadership Winter Haven] *City of Winter Haven Day* luncheon, which had a big crowd and was impressive and gave kudos to staff; attended a Polk County Tourist Development Council (TDC) Meeting and said they continued to set new records and that receipt were up by 3%; attended the inauguration of Avelo Airlines in Lakeland and said that the TDC had committed lots of money to it; attended an Urban Forestry Advisory Committee (UFAC) Meeting where trees were discussed and commented that it was a fun committee; and made an appearance at a Multimodal Transportation Advisory Committee (MTAC) meeting.

Commissioner Mercer reported the following: attended the Winter Haven High School Homecoming Parade; attended Leadership Winter Haven *City of Winter Haven Day* luncheon; attended the Six/Ten, LLC National Town Builders Association (NTBA) Fall Roundtable kick-off event and reception; attended the swearing-in ceremony for new Police Chief Monroe; attended the Police Officers' Pension Board and Firefighters' Pension Board Meetings; attended the *Hands on Haven* event and discussed all of the different areas kids could participate in, said that City Manager Stavres was in the dunk tank, and also thanked staff for all of their work; and attended the memorial service for Velma Daniels at the Winter Haven Public Library.

Commissioner Dollison reported the following: attended the *WHHS Hall of Fame Awards* and said that there were so many great talents out of this area; attended the swearing-in ceremony for Police Chief Monroe and said he had known him before and was excited to have him serve; and attended the [Main Street Winter Haven] *Oktoberfest* event, which was nice and very festive.

Mayor Pro Tem Yates reported the following: attended "Touch a Truck" at the [Winter Haven Regional Airport] and said his three-year old loved it. He said that he was very impressed by the event and how everything moved along. He also thanked staff for all of their hard work; attended the *WHHS Hall of Fame Awards* and said it was a tremendous event. He also commented on the coaches, said it was incredible to honor everyone and gave kudos to Principal Williams; attended the swearing-in ceremony for Police Chief Monroe and said he was looking forward in seeing his progression with the Police Department; attended the WHHS Homecoming Parade and said he got to wear his letterman jacket; and announced a "Swiftie" (Taylor Swift) tribute concert that would be coming soon. Lastly, he said that the mosquitos around were worse than ever and asked if the City's trucks were spraying like Polk

County did. City Manager Stavres said that Polk County always did this, never the City, but that he would check with Polk County to see what their schedule was and report this back to the Commission.

Mayor Birdsong reported the following: attended the funeral of a WHHS graduate; attended the WHHS Homecoming Parade and football game; attended the *Winter Haven Hall of Fame Awards* and said his brother [Otis Birdsong] was an inductee; attended the NTBA Fall Roundtable event; attended the Central Florida Healthcare *Classy and Comfy Gala*; attended the General Employees' Pension Board Meeting and reported there were great returns; attended the Tri-County Human Services, Inc. *50th Anniversary Grand Opening Ceremony*; attended the LWH "City of Winter Haven Day" luncheon and wore his Class #22 shirt; attended the swearing in ceremony for Police Chief Monroe; and had a conversation with Polk County Manager Bill Beasley who said that the County had purchased the Mann property of approximately 1,300 acres on both sides of U.S. 27.

15. CITY ATTORNEY REPORT – None

16. CITY MANAGER REPORT

City Manager Stavres thanked the Commission for their comments regarding the *Hands on Haven* event and said that Public Affairs and Communications Director Hill and her staff had done an outstanding job; said that thirty people had gone through the CityU program and he was impressed on the feedback received saying how thankful they were for it and that it was a program creating ambassadors and educating people on what the City did. He had also signed off on paperwork today to hire a graduate of CityU and one of the individuals had recently been appointed to the UFAB.

He reported that he had the pleasure of attending a Greater Winter Haven Chamber of Commerce Board Meeting today with President and CEO Betsy Cleveland and Winter Haven Economic Development Council (WHEDC) President Bruce Lyon and that tremendous feedback had been received from a colleague about their experience with Leadership Winter Haven "City of Winter Haven Day" and the enthusiasm and passion of City staff in their roles serving the public.

He also reported that he had received a phone call today from the City of Auburndale inviting the Commission to attend a football game this Friday and the loser would have to wear the hat of the winning team.

City Manager Stavres complimented the Mayor for giving a great opening at the NTBA Fall Roundtable and that it was a "feather in the cap" for Winter Haven.

Lastly, he said that he would be out of the office tomorrow attending a funeral out of town so Deputy City Manager Carnevale was in charge.

17. DEPUTY CITY MANAGER REPORT – None

18. CITY CLERK REPORT

City Clerk Castillo reminded everyone of the *Hispanic Heritage Month* Celebration Luncheon for City employees this Friday hosted by the Employee Diversity and Inclusivity team.

19. EMERGENCY MATTERS NOT RECEIVED FOR THE AGENDA – None

20. ADJOURNMENT – 7:03 p.m.

ATTEST:

_____
Vanessa Castillo, MMC
City Clerk

CITY OF WINTER HAVEN, FLORIDA

_____
Nathaniel J. Birdsong, Jr.
Mayor

WINTER HAVEN
THE CHAIN OF LAKES CITY

CITY COMMISSION AGENDA REVIEW SESSION MINUTES

DATE: Wednesday, November 6, 2024, 5:30 p.m.

LOCATION: City Hall – John Fuller Auditorium
451 Third Street NW, Winter Haven, FL 33881

NOTE:
PowerPoint slides of certain agenda items were also presented during this meeting. Link to PowerPoint here:
https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:dd3fe79f-8b14-4780-b95a-31677415f8fd
A hard copy of the PowerPoint will be attached to the original signed minutes.

1. CALL TO ORDER - Mayor Birdsong called the meeting to order at 5:30 p.m.

2. ROLL CALL - Vanessa Castillo, MMC, City Clerk

Commissioners Present: Mayor Nathaniel J. Birdsong, Jr.; Mayor Pro Tem Brian Yates; Commissioner Bradley T. Dantzler; Commissioner Tracy Mercer; and Commissioner Clifton E. Dollison.

Staff Present: City Manager T. Michael Stavres; Deputy City Manager Michael "M.J." Carnevale; Assistant City Attorney Drew Crawford; City Clerk Vanessa Castillo; Assistant City Manager for Public Safety Charlie Bird; Fire Chief Joe "Sonny" Emery; Smart City Officer Hiep Nguyen; Winter Haven Water Director Gary Hubbard; Economic Opportunity and Community Investment Director Eric Labbe; Public Affairs and Communications Director Katrina Hill; Chief Financial Officer Colleen "C.J." Scott; Winter Haven Regional Airport Director Troy Heidel; and Police Chief Vance Monroe.

5. PRESENTATION(S)

A. Update on Theatre Winter Haven and The Ritz Theatre - Dan Chesnicka

City Manager Stavres said this presentation would be given at the November 12, Regular City Commission Meeting.

There were no questions or discussion.

B. * AGENDA REVIEW ONLY *** Strategic Plan Presentation: Community Safety**

City Manager Stavres said this presentation would be given at the end of the agenda.

There were no questions or discussion.

6. DEVELOPMENTS OF NOTE - None

7. MINUTES - None

8. COMMENTS FROM THE AUDIENCE – N/A

9. ORDINANCE(S) – SECOND READING – PUBLIC HEARING - None

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10. CONSENT AGENDA

A. Reappointment of Three (3) Airport Advisory Committee Members

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

B. Florida Department of Transportation Road Closure Permit Applications

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

C. Agreement for the transfer of Public Right Of Way - Waters Road

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

D. Police Department Purchase of Five (5) Vehicles

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

E. Funding Scan and Grant Program Development, WSP USA Environmental & Infrastructure, Inc.

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

F. Water Plant Ground Storage Tanks ONE Water logo application by Seven Brothers Painting, Inc.

City Manager Stavres gave an overview of this item.

Mayor Pro Tem Yates inquired if it would be difficult to put a QR code on things to make it easier to find. City Manager Stavres said that this could be looked at, however, he did not want it to pose a safety issue if someone was driving [and trying to get the code]. Commissioner Mercer suggested checking security issues on water and wastewater was under federal protection.

G. Hydrogen Sulfide for Fairfax Water Treatment Plant Study by Florida Polytechnic University

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

11. RESOLUTION(S)

A. R-24-51 - Repealing Resolution R-86-16 and authorizing the discontinuance of adding fluoride to the City water supply system

City Manager Stavres gave an overview of this item. He added that yesterday he had sent the Commissioners an email from a citizen who would not be able to attend the November 12, 2024, Regular City Commission Meeting, but wanted to express their position on it. Commissioner Dantzler asked for it to be sent to him again.

Mayor Birdsong inquired what all the other municipalities were doing. City Manager Stavres said he believed it was a split in Polk County. He also said that what had come out in a ruling in Northern California regarding water fluoridation put it back on the Environmental Protection Agency (EPA) to go back and look at and provide further guidance. Winter Haven Water Director Hubbard said that the municipalities of Lakeland, Lake Alfred, Plant City, Haines City and Auburndale still had fluoride in their water, but Polk County and the municipalities of Davenport, Dundee, Mulberry, Lake Wales, Polk City, Fort Meade, Lake Hamilton, and Highland Park did not.

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Commissioner Dantzler asked about the pros and cons of fluoride. Director Hubbard said that fluoride was started to be added to some public water supply systems in various places throughout the country in the 1950's and 1960's because many people did not go to the dentist and did not have the toothpaste and mouthwash choices of today so it was added to the water. Discussion ensued.

City Manager Stavres discouraged staff to try and weigh in on the medical benefits of it. He said there was no real guidance on this topic and no requirement for it or against it, and that it just rested upon public sentiment and how the elected body responded.

Discussion ensued regarding water standards, fluoride amounts, the EPA dictating levels of minerals and contaminants in the water, and a court ruling regarding any harmful effects.

Commissioner Dantzler requested a copy or any highlights of the court ruling. Assistant City Attorney Crawford said he could summarize it and said that the Toxic Substances Act was a federal act that required a certain review to be done whenever there was evidence that could illustrate that a subject item needed to be regulated. He explained that the petitioners had filed that evidence with the EPA who said it did not meet the standard in order to invoke their ability to initiate regulation under the act, so they sued in Federal District Court. The District Court, without saying whether fluoride was good or bad, said there was enough evidence that had been presented that the EPA did need to initiative rule making. This was the only ruling that had been held so far to date and there was still no guidance from the federal government. Lastly, he believed that the Center for Disease Control and Prevention (CDC) was recommending fluoride, but not requiring it.

Commissioner Dollison commented that fluoride in the water was a benefit to those in the lower social economic spectrum. He also discussed his life experience with fluoride.

12. ORDINANCE(S) - FIRST READING

A. O-24-49 - Request by ABC Properties, LTD to assign Primary Mixed Use Hub Future Land Use to an annexed parcel. (250 Cypress Gardens Boulevard)

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

B. O-24-50 - Request by ABC Properties, LTD to assign Commercial- Highway (C-3) zoning district to an annexed parcel. (250 Cypress Gardens Boulevard)

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

C. O-24-51 - Request by Cypress Southeast, LLC to assign Neighborhood Support Future Land Use to an annexed parcel

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

D. O-24-52 - Request by Cypress Southeast, LLC to assign Commercial- Highway (C-3) zoning district to an annexed parcel

City Manager Stavres gave an overview of this item.

Mayor Pro Tem Yates said he recalled that they had assigned [zoning to] the north parcel and inquired if anything had ever happened there. Economic Opportunity and Community Investment Director Labbe said it was a single-family subdivision currently under construction but that he would go back and obtain additional details to include number of units.

E. O-24-55 - Voluntary annexation of 75 Sage Road

City Manager Stavres gave an overview of this item.

Commissioner Dantzler asked if the City was reserving enough rights-of-way (ROW) to widen this road and pave it. Director Labbe said yes.

Mayor Pro Tem Yates inquired if a conditional requirement could be tagged onto this now. Director Labbe said that at the annexation stage, there was no real way to require anyone to give ROW, however, the City's Code of Ordinances did require it when someone came in to develop property, thus the developer would have to dedicate ROW to us, which the City did not have to purchase at time of development.

13. NEW BUSINESS

A. Chain of Lakes Park Phase II Guaranteed Maximum Price

City Manager Stavres gave an overview of this item and said that a separate agreement, which would be brought forward, at the November 25, 2004, Regular City Commission Meeting, with Applied Aquatics, a continuing contract provider the City had for shoreline work and he knew the Commission was very interested in beautifying the shoreline so that it was aesthetically pleasing and was activated as much as possible in the early phase. He added that the mechanical removal of emergent vegetation that also shielded the view, would be part of the scope of work, which he discussed in more detail.

Mayor Birdsong asked if there was a drawing of this. City Manager Stavres said there was not one in the current slideshow, however, staff would add a photo and aerial view for Monday's meeting. Parks Planning and Strategic Initiatives Manager Andy Palmer said that the aerials showed the shoreline pretty well and they could point out some of the areas that would be improved.

Commissioner Dollison asked if it changed from the original shoreline and expressed that he thought there was an erosion issue. City Manager Stavres said no and that they could not do anything to move the shoreline. He explained that there was a dyke that surrounded the lower field area that was going to be dug out now. The dyke would remain but the fields were being excavated out. All of the shoreline that was behind the stadium and the minor league clubhouse would be the same as it was.

Commissioner Dollison asked about the walkway. Parks Planning and Strategic Initiatives Manager Palmer said the walkway would be a paved loop trail the entire way around where the existing berm was. This berm would stay in the same space and everything from the berm to the shoreline would get a little higher based on the design, which he explained in more detail. He also said that any future phases would take additional permitting and would probably go through Army Corps if they got into the lake. Discussion ensued.

City Manager Stavres commented that field #3 would be an absolute gem and that it was gorgeous to see this lake now because the stadium was no longer blocking it. Discussion ensued regarding cattails removal and spraying for mosquitos.

Deputy City Manager gave an update on mosquito populations and what Polk County did regarding them. He also discussed that there was standing water due to the recent hurricane, staff was collecting data, there was more spraying happening and provided dates, and that assessments were being made and treatments.

❖

Item 5B under Presentations:

FY25 Strategic Pillar Update - Community Safety – Update 1 (slides)

City Manager Stavres gave an introduction on this item and encouraged the Commission to take time afterwards to test out the virtual reality training.

Assistant City Manager for Public Safety Bird gave a *FY25 Strategic Pillar Update - Community Safety – Update 1* PowerPoint presentation *(see link/attached)* on went over the slides on *Community Safety*, *Public Safety Station #4*, and *Fire Station #5* (off Havendale Boulevard), and *VR Demonstration* in more detail.

A virtual reality (VR) demonstration was done by Inspector of Internal Affairs Charles Bolton with Sergeant Steve Rusich, which was explained further by Assistant City Manager Bird.

City Manager Stavres clarified that what everyone saw on the monitors was what Inspector Bolton was viewing on his VR headset was and what everyone could view on the monitors.

Commissioner Dantzler inquired what the difference was between a stun gun effect and a Taser effect and asked why some people shook. Assistant City Manager Bird said that was what was shown in Hollywood movies, but not reality, and explained that once someone went down, their body would be rigid for 5 seconds. Discussion ensued.

Commissioner Dollison said he did not know if there were still concerns with people being "Tased" then suffering long-term effects and even death. Assistant City Manager Bird said there was much science behind it and that was one of the reasons the chest was no longer an area to shoot at.

Inspector Bolton said that part of their training was to increase the distance between the "dart to heart" area, which he explained further. Assistant City Manager Bird discussed the circuit, safe places to use this item, and how the nervous system and sensory nervous systems were affected.

❖

Lead and Copper Initiative (slides)

Winter Haven Water Assistant Director Mark Bombard gave an introduction on this item and said that Winter Haven Water Operations Manager Travis Pike and Winter Haven Water Superintendent David Hernandez would be presenting information in more detail.

Operations Manager Pike gave a *Lead & Copper Initiative* PowerPoint Presentation *(see link/attached)* and explained the slides in more detail. He noted that they had submitted their findings to the Polk County Health Department on time and received approval of receipt. They found out that the City currently had 13,626 unknown service lines where they did not know the material. They suspected that up to 3,617 homes did have a lead service line so they were going to continue to dig, identify, and start getting the word out set forth by the requirements in the rule. Those with lead service lines would be sent a letter saying that they would be replaced and after 45 days the City could perform the work. He explained that after the work was performed, citizens would be supplied with a Brita water filter pitcher for their drinking water and instructions for flushing. He discussed additional measures in more detail.

City Manager Stavres said that the lead and copper rule was a nationwide EPA requirement. He noted that these were service lines pre-1980 that were put in and now these were being addressed out of an abundance of caution and safeguarding everyone going forward. He added that nothing had changed within the water system within the recent months or years, however, what the City was doing was what the requirement was.

Mayor Pro Tem Yates said he understood that this was required, but expressed that he was concerned with the unintended consequences when pipes were moved and any complaints to the City. He inquired if there was a plan in place to address those situations as they occurred. Commissioner Mercer said the plan required replacement every ten years. City Manager Stavres said that there would always be people that would say something was damaged therefore staff in the field was documenting, following precise protocols and procedures to ensure we were doing it accurately, holding ourselves accountable through supervisors and crew leaders, investigating complaints, and taking responsibility if the City was at fault. Mayor Pro Tem Yates said if a situation arose, he wanted the City to find a solution first. Discussion ensued.

Superintendent David Hernandez added that whenever any lead service lines were disturbed, there was a protocol per EPA standard, for immediate flushing and getting information to the homeowner. They often offered a lead sampling kit that got dropped off at the door, then the water sample was collected and sent to a lab for testing, which he explained in more detail.

Discussion ensued.

Commissioner Dantzler asked if there was an issue with asbestos and if the Brita filter removed asbestos or only lead. Operations Manager Pike said it was only for lead and that there was still quite a bit of asbestos water mains, however, they were working on removing them all.

Discussion ensued regarding the Brita filter meeting government requirements, known non-lead status, and if there was lead pipe connections on the City side.

Commissioner Mercer commented that lead and copper [pipes] could not be used anymore and some had been replaced.

National Institute of Standards and Technology (NIST) Framework (Multi-factor) (slide)

Assistant Director Bombard continued with the PowerPoint and discussed the *National Institute of Standards and Technology (NIST) Framework (Multi-factor)* slide in more detail and said Smart City Officer Nguyen would discuss how cybersecurity works and what the findings were.

DRAFT

Smart City Officer Nguyen reported that each city the size of Winter Haven was required to adopt an attestation of cybersecurity framework and that the Commission had done so via a resolution last year by adopting NIST, which was a set of best practices that help guide our cybersecurity efforts. He added that the City used this extensively to implement our program, which he explained in more detail.

Cybersecurity and Water Operations Cybersecurity Risk Assessment (slide)

Smart City Officer Nguyen discussed the risk assessment that identified cybersecurity risk for further exploration, particularly to the City's critical water infrastructure, which he explained further.

Discussion ensued regarding Florida Municipal Insurance Trust (FMIT) and insurance for cybersecurity.

14. CITY COMMISSIONERS/LIAISON REPORTS – None

15. CITY ATTORNEY REPORT – No report

16. CITY MANAGER REPORT

City Manager Stavres reminded everyone that the *State of the City* was being held tomorrow morning.

Commissioner Dantzler asked if the City closed on the Bobby Cameron property. City Manager Stavres said he would bring this information to the November 12, 2024, Regular City Commission Meeting. He added that he was told that the Florida Department of Transportation (FDOT) portion of that required the FDOT to bid that out and it went to someone else. Mayor Pro Tem Yates said it went to the adjacent property owner. Discussion ensued.

17. DEPUTY CITY MANAGER REPORT – No report

18. CITY CLERK REPORT – No report

19. EMERGENCY MATTERS NOT RECEIVED FOR THE AGENDA – None

20. ADJOURNMENT – 7:09 p.m.

ATTEST: **CITY OF WINTER HAVEN, FLORIDA**

Vanessa Castillo, MMC
City Clerk

Nathaniel J. Birdsong, Jr.
Mayor

DRAFT

DATE: November 11, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Eric Labbe, Economic Opportunity and Community Investment Director
Sean Byers, Planning Manager

FROM: Heather Reuter, Senior Planner

SUBJECT: Ordinance O-24-53: Request by Paul William Schulz Revocable Trust to rezone a parcel from Planned Unit Development (PUD) zoning district to Single Family Residential- Large Lot (R-1) zoning district. General Location: 4020 Country Club Road, South. The area covered by this request is 6.02± acres.

BACKGROUND

Paul William Schulz Revocable Trust, petitioner, requests the City rezone a portion of parcel from Planned Unit Development (PUD) zoning district to Single Family Residential- Large Lot (R-1) zoning district. The area subject to this request is a portion of a Planned Unit Development subject to PUD Ordinance O-20-19. The property that is the subject of this request is located at 4020 Country Club Road, South, is approximately 6.02± acres, and contains the vacant Outback Oasis event venue and associated pavilion, restrooms, and pond. Current PUD Ordinance O-20-19 allows for up to a 5,000-square foot event venue or clubhouse depicted in the conceptual plan on the subject property.

The petitioner proposes to remove the commercial use provided in the PUD which is the subject of Ordinance O-20-19 and return/rezone an approximate 6.02-acre area to residential use permitted by the R-1 zoning district with this request. The petitioner intends to develop the approximate 6.02-acre parcel with estate size lots comparable to the surrounding parcels. The R-1 zoning district allows up to three (3) dwelling units per acre. Based on the 6.02± acres, a theoretical maximum of 18 single-family units could be developed; however, when R-1 development standards, infrastructure requirements, and the existing pond located on the parcel are considered, it would be unlikely for the subject property to be developed at the maximum permitted density. All other adjacent property (not subject to the rezoning request) shall remain subject to the PUD zoning district established by Ordinance O-20-19.

SURROUNDING USES

The subject property is surrounded by single-family residential to the east, south, and west, and single-family residential across Country Club Road to the north.

INFRASTRUCTURE

The table below outlines the maximum potential demands on supporting infrastructure for the maximum theoretical development of 18 single-family units.

Potable Water				
Current Available Capacity (September 30, 2024)		Current Vested Demands	R-1 Maximum Potential Demands	Remaining Capacity
2,370,000 gpd		1,892,500 gpd	4,536 gpd	472,964 gpd
Sanitary Sewer (WWTP 2)				
Current Available Capacity (September 30, 2024)		Current Vested Demands	R-1 Maximum Potential Demands	Remaining Capacity
609,000 gpd		235,300 gpd	3,969 gpd	369,731 gpd
Transportation (Traffic Count Data from Polk Transportation Planning Organization)				
Current Available Capacity (PM Peak Hour)		Current Vested Demands	R-1 Maximum Potential Demands	Remaining Capacity
Country Club Road				
Northbound	673 trips	103 trips	9 trips	562 trips
Southbound	681 trips	98 trips	8 trips	574 trips

Based on the numbers in the table above, there is sufficient potable water, wastewater, and roadway capacity available to support the maximum potential development of the subject property under the requested zoning designation. However, a final concurrency determination shall be made at the time the property receives site plan approval and is developed.

Public school availability is highly variable due to frequent changes in school enrollments over the course of a year; therefore, available capacity is determined by the Polk County Public Schools at the time of final platting for subdivisions. Availability can be met by having capacity at the zoned schools or an adjacent zoned school as permitted under State Statute. Based on the maximum potential for up to 18 single-family units, up to 4 elementary, 2 middle, and 3 high school seats may be required.

COMPREHENSIVE PLAN

The current adopted Future Land Use on the property is Neighborhood Suburban. The requested R-1 zoning district is consistent with the Neighborhood Suburban Future Land Use designation.

NOTIFICATION

All public notification requirements for this request were met.

FINANCIAL IMPACT

There is no direct financial impact to the City with this request.

This request is initiated by an application by a private party. In accordance with Chapter 2024-145, Laws of Fla. (CS/CS/SB 1628 (2024)), ordinances initiated by an application by a private party are exempt from providing Business Impact Estimates.

STRATEGIC PLAN ALIGNMENT

This is a routine zoning amendment associated with normal operations of the City not specifically defined as a goal or strategy within the Strategic Plan. However, it is aligned with the Economic Sustainability Strategic Pillar.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission, at its November 5, 2024 regular meeting, voted to recommend approval of this request. No members of the public spoke.

CONCLUSION

Staff's review of the petitioner's request yields the following conclusions:

- The requested R-1 zoning district is compatible with the immediate surrounding uses and also the City designations in the Country Club Road corridor;
- The requested R-1 zoning district is consistent with the Neighborhood Suburban Future Land Use assigned to the property; and

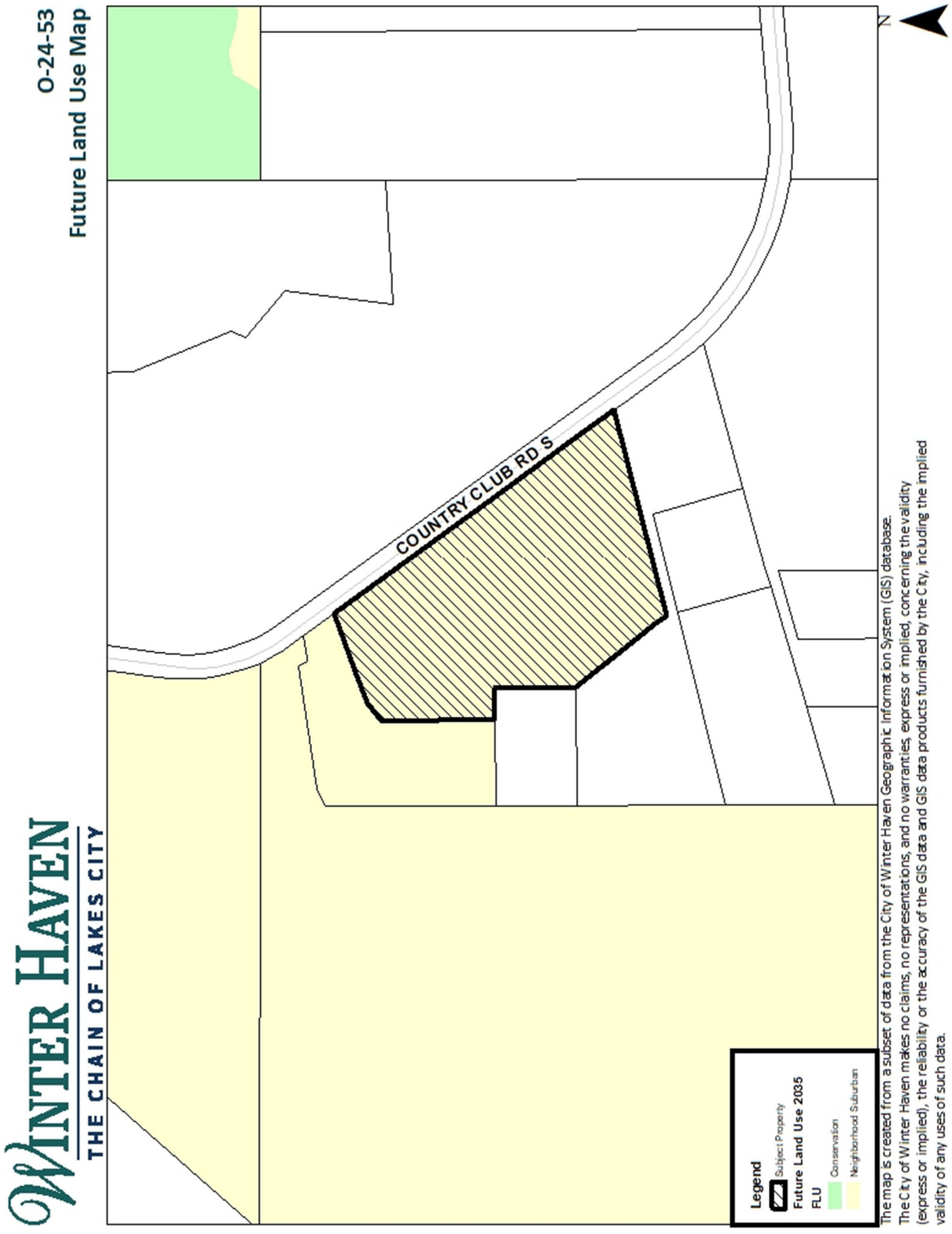
- This request will likely result in a potential decrease in public infrastructure demands by removal of the commercial event venue/clubhouse from PD-20-19 and the lands that are zoned PUD zoning district by Ordinance O-20-19; and additionally, at this time, there is sufficient capacity to support the maximum potential development under the requested R-1 zoning district.

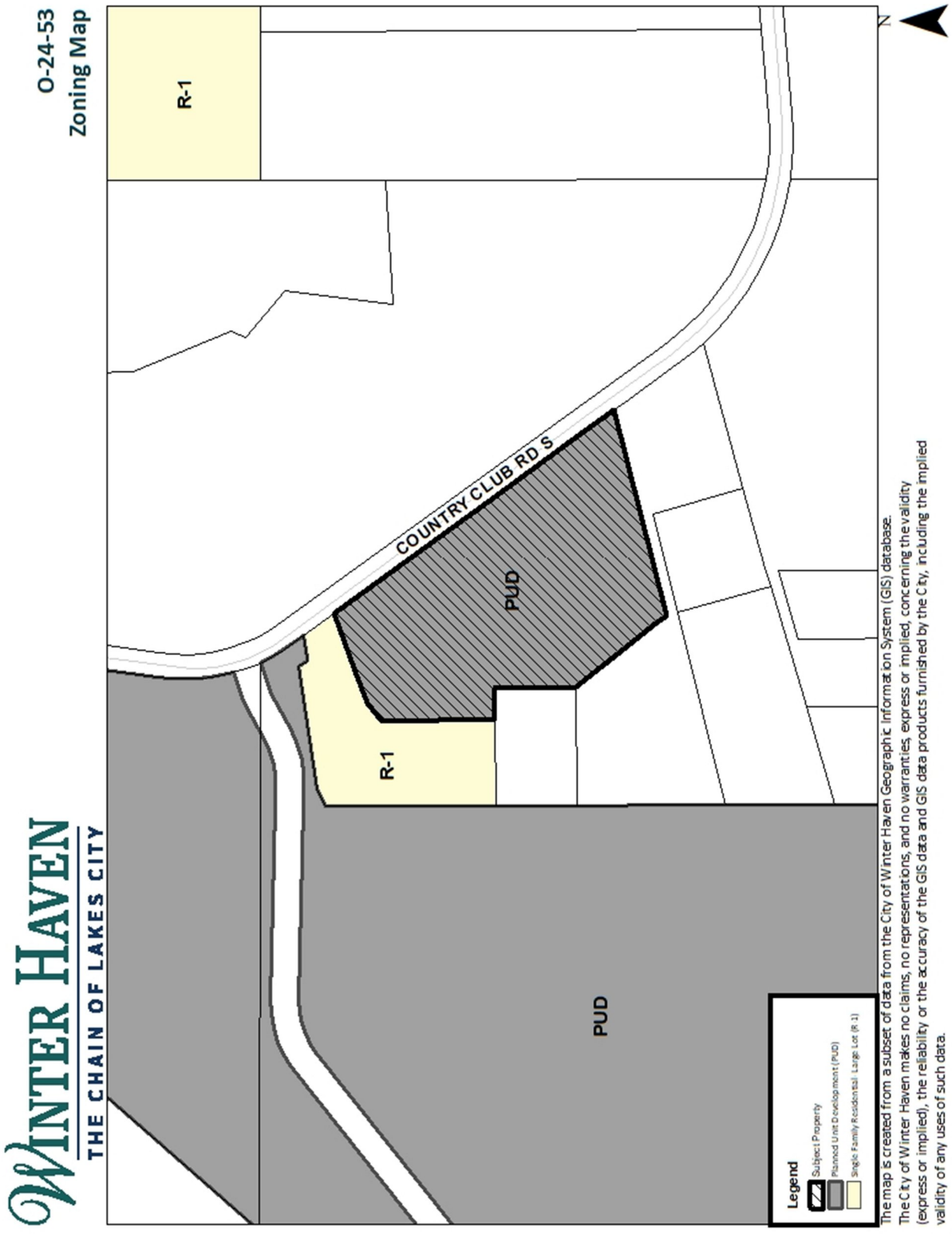
RECOMMENDATION

Staff recommends the City Commission approve Ordinance O-24-53.

ATTACHMENTS

- Future Land Use Map
- Zoning Map
- Aerial Map
- Ordinance O-24-53


O-24-53
Future Land Use Map
COUNTRY CLUB RD S
N
Legend
Subject Property
Future Land Use 2035
FLU
Conservation
Neighborhood Suburban
WINTER HAVEN
THE CHAIN OF LAKES CITY
The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database.
The City of Winter Haven makes no claims, no representations, and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and GIS data products furnished by the City, including the implied validity of any uses of such data.


O-24-53
Zoning Map
R-1
COUNTRY CLUB RD S
PUD
R-1
PUD
N
Legend
Subject Property
Planned Unit Development (PUD)
Single Family Residential Large Lot (R-1)
WINTER HAVEN
THE CHAIN OF LAKES CITY
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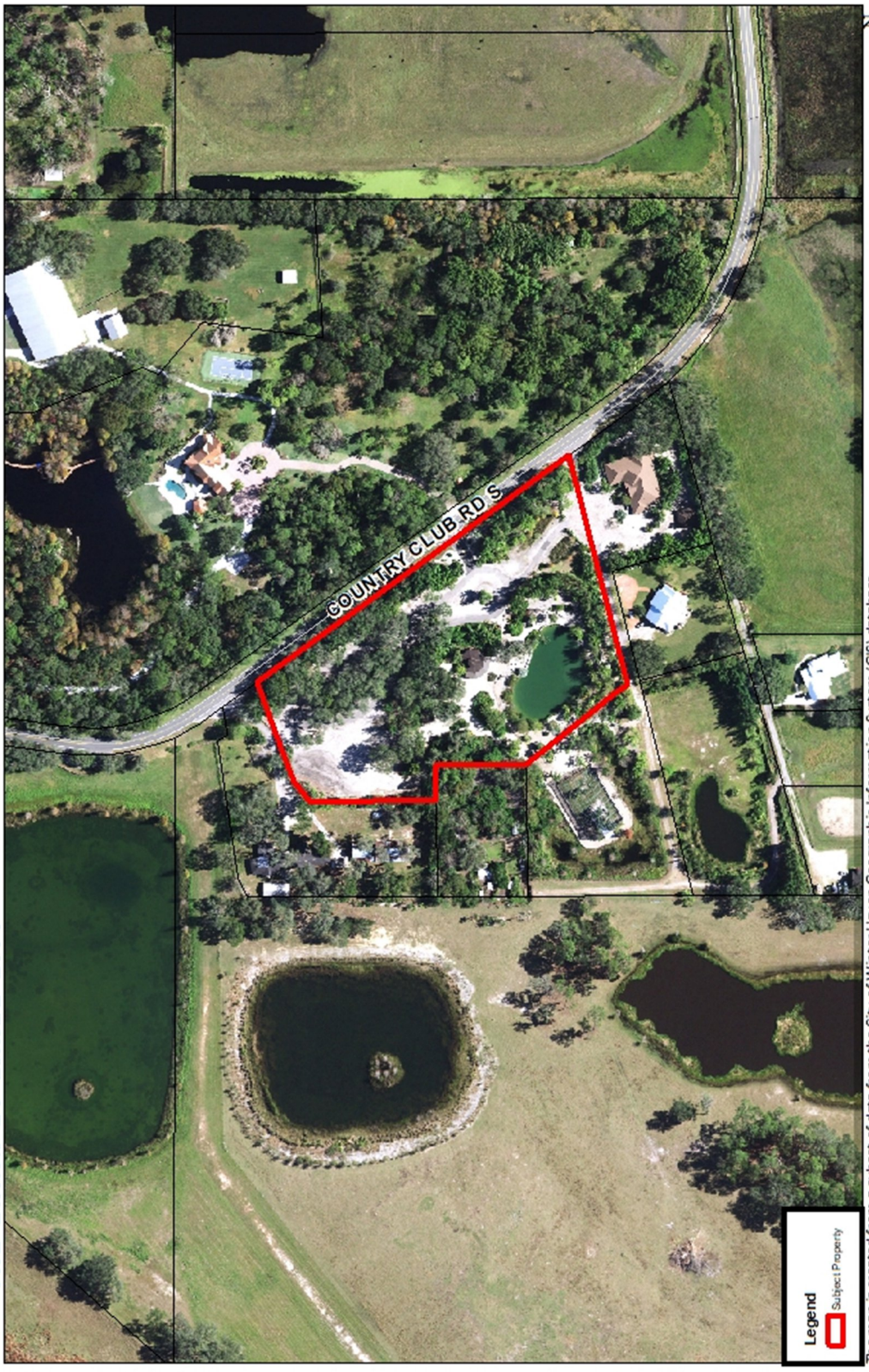
O-24-53
Aerial Map



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THE CHAIN OF LAKES CITY

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ORDINANCE NO. O-24-53

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER HAVEN, FLORIDA, BY REZONING ONE (1) PARCEL FROM PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT TO SINGLE FAMILY RESIDENTIAL- LARGE LOT (R-1) ZONING DISTRICT; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE. (General Location: 4020 Country Club Road, South. The area covered by this request is 6.02± acres.)

WHEREAS, there has been a request to rezone the property depicted below, and;

WHEREAS, the action will further the general health, safety, and welfare and be a benefit to the City as a whole, and;

WHEREAS, the requested rezoning is consistent with the Future Land Use Element of the Winter Haven Comprehensive Plan.

WHEREAS, the request implements requirements contained in Part II, Chapter 163 of Florida Statutes, and therefore is exempt from requiring a Business Impact Estimate as set forth by Chapter 2023-309, Laws of Fla. (CS/CS/SB 170 (2023)).

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER HAVEN, FLORIDA, AS FOLLOWS:

1. That Chapter 21 of the Code of Ordinances of the City of Winter Haven, Florida, is hereby amended to rezone that land, depicted in Exhibit "A" attached hereto and made a part of this Ordinance, from Planned Unit Development (PUD) zoning district to Single Family Residential- Large Lot (R-1) zoning district.

2. This Ordinance shall not be codified, but the City Clerk shall retain this Ordinance as a permanent record of action taken by the City Commission of the City of Winter Haven.

3. The correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

4. All ordinances in conflict herewith are hereby repealed but only to the extent necessary to give this Ordinance full force and effect. Provided further that the provisions of Ordinance O-20-19 establishing a PUD zoning district on lands adjacent to the land depicted on Exhibit "A" attached hereto shall remain in full force and effect and is not intended to be repealed by the adoption and passage of this Ordinance.

5. This Ordinance shall be effective immediately upon the effective date; however, that such change shall first be noted on the official zoning map of the City of Winter Haven.

INTRODUCED on first reading this 25th day of November, 2024.

PASSED on second reading this 9th day of December, 2024.

CITY OF WINTER HAVEN, FLORIDA

_____
MAYOR-COMMISSIONER
Nathaniel J. Birdsong, Jr.

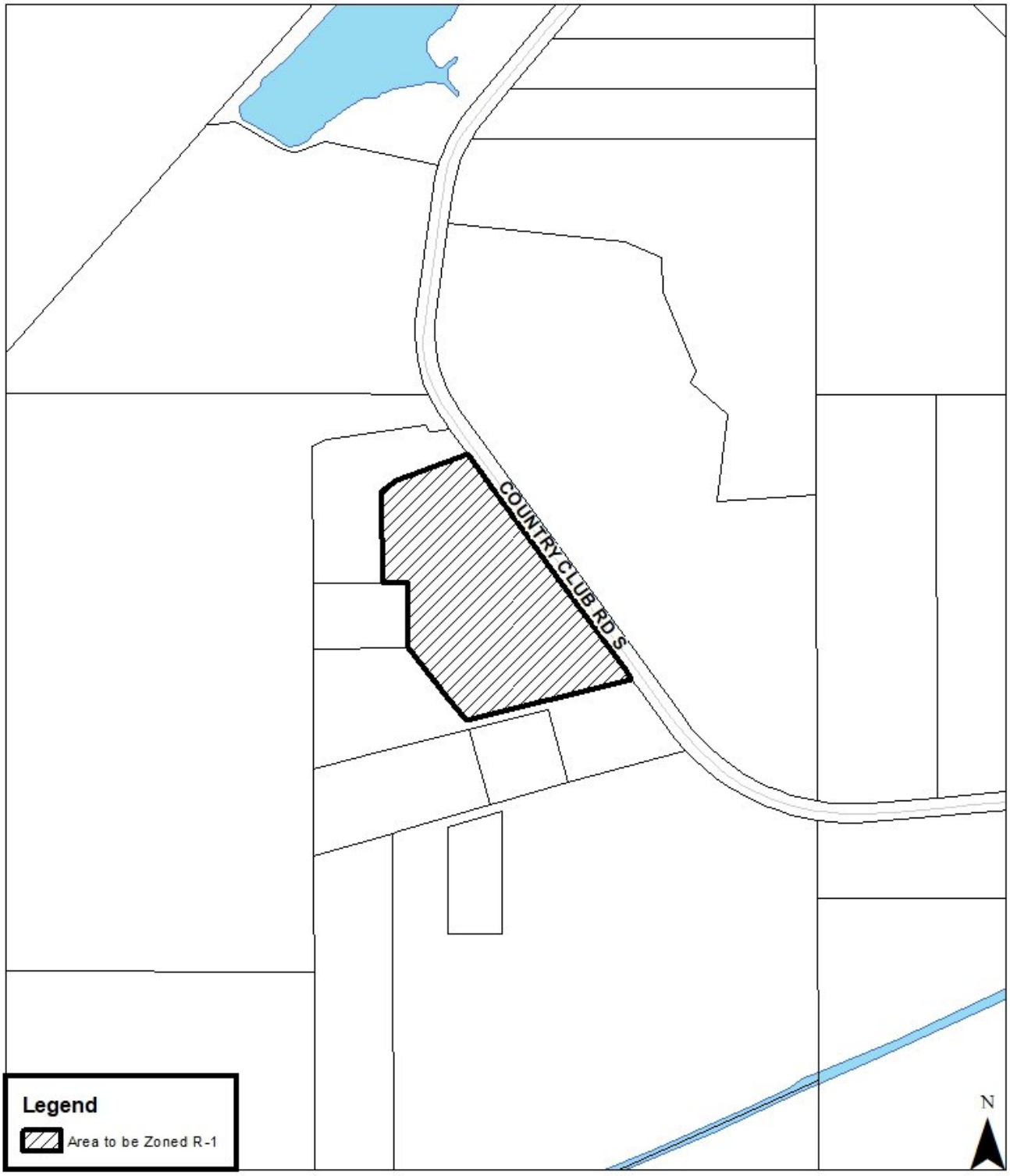
ATTEST:

_____
CITY CLERK
Vanessa Castillo, MMC

Approved as to form:

_____
CITY ATTORNEY
Frederick J. Murphy, Jr.

Exhibit “A”



DATE: October 29, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Eric Labbe, Economic Opportunity and Community Investment Director

FROM: Sean Byers, Planning Manager

SUBJECT: Ordinance O-24-54: Request by the Peace Creek Village Community Development District to expand the boundaries of the Peace Creek Village Community Development District. General Location: The area covered by this request is generally located south of Old Bartow/Lake Wales Road and west of Old Bartow Road. The area covered by this request is 84.75± acres.

BACKGROUND

Peace Creek Village Community Development District (CDD) has filed a petition with the City requesting to expand the boundaries of the CDD as permitted by Chapter 190.005(2), Florida Statutes. The CDD was established October 23, 2023, and presently consists of approximately 95.38± acres generally located north of Old Bartow Lake Wales Road and east of McClean Road. The Annabelle Estates Subdivision, totaling 324 building lots and 12 common lots, is located within the CDD and is presently under construction.

The proposed expansion of the CDD is located south of Old Bartow/Lake Wales Road and west of Old Bartow Road and contains approximately 84.75± acres. The area will be developed as the Reserve at Lake Parker Subdivision with approximately 336 building lots. With inclusion of the expanded area, the total area of the Peace Creek Village CDD will be approximately 180.13± acres.

Chapter 190 of Florida Statutes allows a developer to petition to establish or expand a CDD for the purpose of managing the provision of infrastructure improvements and public services, including funding. The Peace Creek Village CDD consists of a five (5) member Board of Supervisors (CDD Board) having the authority to oversee the installation of infrastructure improvements, secure financing, and to levy non ad valorem special assessments on future property owners within its boundaries. All meetings are open to the public and are subject to all applicable Government in the Sunshine laws.

The petitioner has submitted a Statement of Estimated Regulatory Costs for the Peace Creek Village CDD expansion area. The Statement indicates the total infrastructure costs are estimated at $16,312,557, and will be financed through District bonds. Based on the Statement, the State of Florida, Polk County, and the City of Winter Haven will not incur any costs relating to the establishment of the CDD, nor per Chapter 190 F.S., will any debts incurred by the CDD become debts of the City, County, or State of Florida. Since the land area of the CDD is an independent unit of government and issues its own bonds, the CDD will not have any effect on the bonding capacity of the City, County, or State of Florida. The CDD is required to adopt and submit a budget for its operations to the City on an annual basis. The City will have an opportunity to comment on the CDD's budget prior to its adoption by the Board.

Water, sewer, and reuse infrastructure will be maintained by the City while all internal roadway and drainage infrastructure will be maintained by the CDD. In the event the CDD is terminated, the City will not be required to accept ownership or maintenance of road rights-of-way, stormwater management and drainage systems, and street lighting without express written consent.

Pursuant to Section 190.012(2)(a) and (d), the petitioner is requesting consent to exercise special powers relating to the provision of parks and facilities for indoor and outdoor recreation, cultural, and educational uses; and security.

FINANCIAL IMPACT/BUSINESS IMPACT STATEMENT:

There is no direct financial impact to the City with this request.

This request has been initiated by an application by a private party. In accordance with Chapter 2024-145, Laws of Fla. (CS/CS/SB 1628 (2024)), ordinances initiated by an application by a private party are exempt from providing Business Impact Estimates.

STRATEGIC PLAN ALIGNMENT

This is a request to expand the boundaries of the Peace Creek Village Community Development District associated with normal operations of the City not specifically defined as a goal or strategy within the Strategic Plan. However, it is aligned with the Responsible Government Strategic Pillar.

RECOMMENDATION

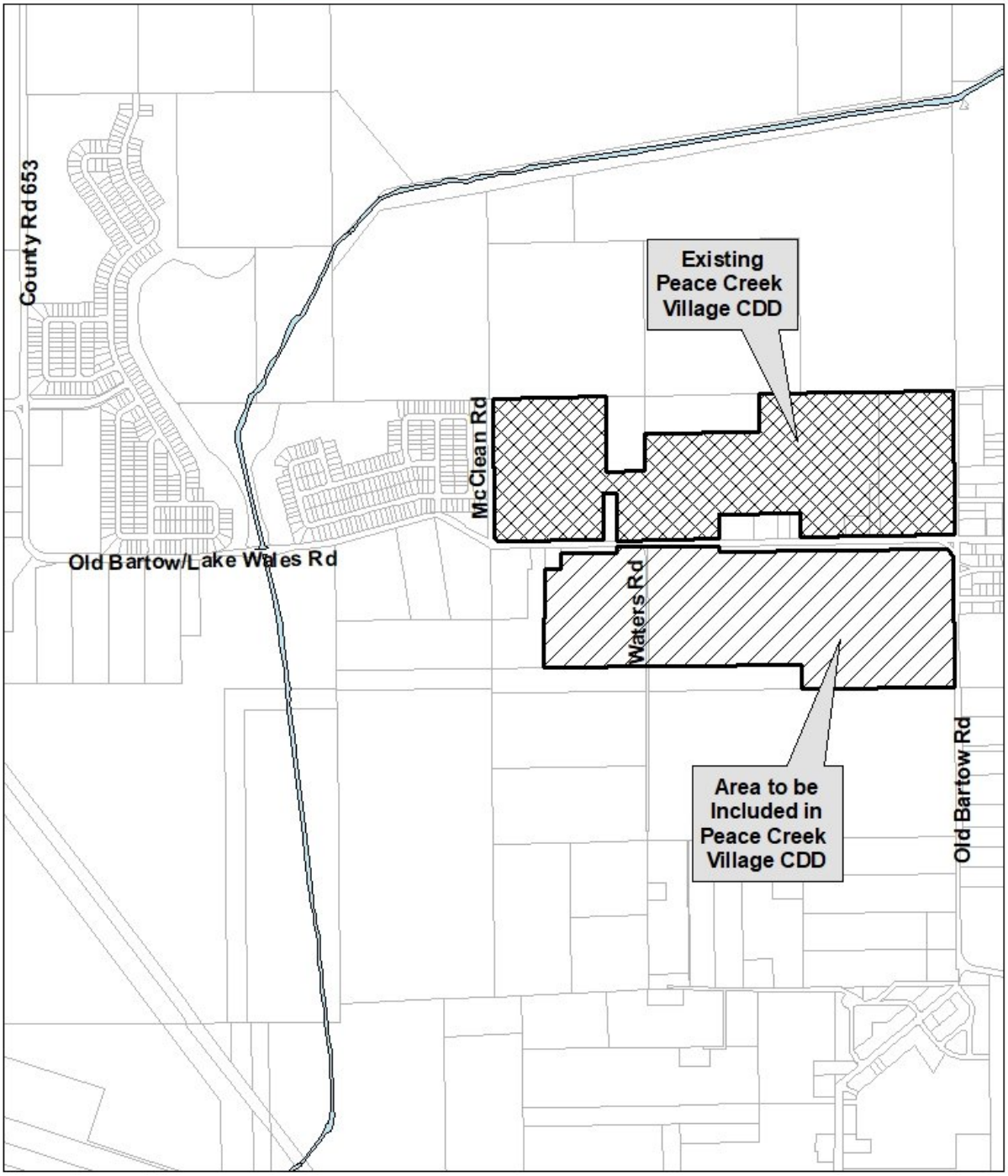
Staff recommends the City Commission approve Ordinance O-24-54.

ATTACHMENTS

- Location Map
- Ordinance O-24-54
- Petition to Expand the Boundaries of the Peace Creek Village Community Development District
- David Matt Affidavit and Pre-filed Testimony
- Steve Sloan Affidavit and Pre-filed Testimony
- Craig Wrathell Affidavit and Pre-filed Testimony

City of Winter Haven
Economic Opportunity & Community Investment

Location Map
O-24-54



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ORDINANCE NO. O-24-54

AN ORDINANCE OF THE CITY OF WINTER HAVEN, FLORIDA AMENDING ORDINANCE NO. O-23-57, WHICH ESTABLISHED THE PEACE CREEK VILLAGE COMMUNITY DEVELOPMENT DISTRICT, TO EXPAND THE BOUNDARIES OF THE PEACE CREEK VILLAGE COMMUNITY DEVELOPMENT DISTRICT, PURSUANT TO CHAPTER 190, FLORIDA STATUTES (2024); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on October 23, 2023, the City Commission (the "Commission") of the City of Winter Haven, Florida (the "City") approved Ordinance No. O-23-57 (the "Establishing Ordinance"), effective October 23, 2023, establishing the Peace Creek Village Community Development District (the "District") pursuant to Chapter 190, *Florida Statutes*; and

WHEREAS, the City received the District's *Petition to Expand the Boundary of the Peace Creek Village Community Development District* (the "Petition"), which Petition is in compliance with the provisions of Section 190.046, *Florida Statutes* (2024); and

WHEREAS, all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the Petition at a duly noticed public hearing conducted by the Commission on December 9, 2024, pursuant to Section 190.046(1)(b), *Florida Statutes* (2024); and

WHEREAS, the additional property to be added to the District's boundaries (the "Expansion Parcel") is owned by Winterlake PH LP and by Lake Wales Common LP and they have provided written consent to authorize the addition of the Expansion Parcel to the District's boundaries; and

WHEREAS, the Commission has considered the record established at the duly noticed public hearing and has considered the statutory factors set forth in Section 190.005(1)(e), *Florida Statutes* (2024), in making its determination to grant or deny the Petition; and

WHEREAS, the Commission, pursuant to the information contained within the Petition and based on an investigation conducted by City staff and otherwise being fully advised as to the facts and circumstances contained within the Petition, finds that the statutory factors under Section 190.005(1)(e), *Florida Statutes* (2024) have been satisfied; and

WHEREAS, pursuant to the information stated herein and, in the Petition, and upon consideration of the record established at the duly noticed hearing, the Commission has decided to grant the District's Petition; and

WHEREAS, the District, as amended, will constitute a timely, efficient, effective, responsive, and economic way to deliver community development services in the area described in the Petition; and

WHEREAS, the District, as amended, shall not act to amend any land development approvals governing the land to be included within the District; and

WHEREAS, upon the effective date of this Ordinance, the Peace Creek Village Community Development District, as created by general law and by Ordinance No. O-23-57, will be duly and legally authorized to exist on the proposed property and to exercise all of its general and special powers as limited by law and by Ordinance No. O-23-57, including within the Expansion Parcel.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER HAVEN, FLORIDA, AS FOLLOWS:

Section 1. Boundaries. The City hereby grants the District's Petition, and the boundaries of the District are modified to include the metes and bounds description of the Expansion Parcel, comprising approximately 84.747 acres, more or less, as described in Exhibit 1 attached hereto and incorporated herein by reference. The District boundaries as amended by adoption of this Ordinance are described in Exhibit 2 attached hereto and incorporated herein by reference and shall encompass approximately 180.147 acres of land, more or less.

Section 2. City Findings. The City, pursuant to the information contained within the Petition and an investigation conducted by City staff and otherwise being fully advised as to the facts and circumstances contained within the Petition, finds as follows:

(1) The statements within the Petition are true and correct; and

(2) The Petition is complete in that it meets the requirements of Section 190.046, *Florida Statutes* (2024); and

(3) The appropriate City staff have reviewed the Petition of the District on the proposed lands to be included within the District and have advised the Commission that said Petition is complete and sufficient; and

(4) Amendment of the District boundaries and all land uses and services planned within the District, as amended, are not inconsistent with applicable elements or portions of the adopted State Comprehensive Plan or the applicable and effective local comprehensive plans; and

(5) The area of land to be included within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as one functional, interrelated community; and

(6) The District, as amended, is the best alternative available for delivering community development services and facilities to the area that will be served by the District; and

(7) The community development services and facilities of the District, as amended, will not be incompatible with the capacity and uses of existing local and regional community development services and facilities; and

(8) The area that will be served by the District, as amended, is amenable to separate special-district government.

Section 3. Authority. This Ordinance is adopted in compliance with and pursuant to the Uniform Community Development District Act of 1980, Chapter 190, *Florida Statutes* (2024).

Section 4. Conflicts. All Ordinances or parts thereof in conflict herewith are, to the extent of such conflict, superseded and repealed. Provided, however, that all of the terms of Ordinance No. O-23-57 adopted by the Commission on October 23, 2023 are expressly affirmed and shall remain in full force and effect and be applicable for that Expansion Parcel described in Exhibit 1 a?ached hereto and incorporated herein by reference and the Expansion Parcel shall be subject to all of the provisions of Ordinance No. O-23-57 which are expressly affirmed herein.

Section 5. Severability. If any provision of this Ordinance, or the application thereof, is finally determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be deemed severable and the remaining provisions shall continue in full force and effect provided that the invalid, illegal, or unenforceable provision is not material to the logical and intended interpretation of this Ordinance.

Sec?on 6. Administra?ve Correc?on of Scrivener's Errors. The correc?on of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or his or her designee, without need of a public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

Section 7. Effective Date. This Ordinance shall take effect immediately upon passage at second reading after public hearing.

INTRODUCED on first reading this 25th day of November, 2024.

PASSED on second reading this 9th day of December, 2024.

CITY OF WINTER HAVEN, FLORIDA

_____

Mayor-Commissioner
Nathaniel J. Birdsong, Jr.

ATTEST:

City Clerk
Vanessa Castillo, MMC

Approved as to form:

City Attorney
Frederick J. Murphy, Jr.

BEFORE THE CITY COMMISSION FOR THE
CITY OF WINTER HAVEN, FLORIDA

IN RE: PETITION TO EXPAND THE BOUNDARIES)
OF THE PEACE CREEK VILLAGE)
COMMUNITY DEVELOPMENT DISTRICT)

AFFIDAVIT ADOPTING WRITTEN, PRE-FILED TESTIMONY

STATE OF FLORIDA
COUNTY OF Orange

I, David Matt, of Peace Creek Village Community Development District being first duly sworn, do hereby state for my affidavit as follows:

1. I have personal knowledge of the matters set forth in this affidavit.

2. My name is David Matt, and I am the Chairperson of the Board of Supervisors of the Peace Creek Village Community Development District ("District" or "Petitioner").

3. The prepared written, pre-filed testimony consisting of five (5) pages, submitted under my name to the City Commission for the City of Winter Haven, Florida relating to the Petition to Expand the Boundaries of the Peace Creek Village Community Development District, the Revised Petition to Expand the Boundaries of the Peace Creek Village Community Development District, and the Second Revised Petition to Expand the Boundaries of the Peace Creek Village Community Development District (collectively, "Petition") and attached hereto, is true and correct.

4. If I were asked the questions contained in the pre-filed testimony orally at the Peace Creek Village Community Development District boundary amendment hearing, my oral answers would be the same as the written answers presented in my pre-filed testimony.

5. My credentials, experience and qualifications concerning the Petition, its exhibits and the reasons for amending the District are accurately set forth in my pre-filed testimony.

6. My pre-filed testimony addresses the various statutory requirements and an overview of the proposed development within the amended boundaries of the District.

7. No corrections or amendments to my pre-filed testimony are required.

Under penalties of perjury, I declare that I have read the foregoing and the facts alleged are true and correct to the best of my knowledge and belief.

Executed this 15th day of November 2024.

David Matt

STATE OF FLORIDA
COUNTY OF ORANGE

SWORN TO and SUBSCRIBED before me by the Affiant, by means of ☑ physical presence or ☐ online notarization, on this 15th day of November 2024, by David Matt, who is personally known to me or who has produced _____ as identification.

MARCIA ANN BEXLEY
Notary Public - State of Florida
Commission # HH 397859
My Comm. Expires Aug 15, 2027
Bonded through National Notary Assn.

[notary seal]

(Official Notary Signature)
Name: MARCIA ANN BEXLEY
Personally Known ✓
OR Produced Identification _____
Type of Identification _____

TESTIMONY OF DAVID MATT FOR THE PEACE CREEK VILLAGE COMMUNITY DEVELOPMENT DISTRICT BOUNDARY AMENDMENT

1. Please state your name and business address.

My name is David Matt and my business address is 472 Fletcher Place, Winter Park, Florida, 32789.

2. By whom are you employed and in what capacity?

I am the Manager of ERPC Peace Creek, LLC.

3. Are you a member of the Board of Supervisors ("Board") of the Peace Creek Village Community Development District ("District")?

Yes, I am the Chairperson of the District's Board of Supervisors.

4. How long have you been serving on the District's Board?

Approximately one (1) year.

5. Briefly summarize your duties and responsibilities as the Chairperson of the District's Board of Supervisors.

I am a voting member of the Board of Supervisors, and I am typically the person designated to sign various documents and take various actions on behalf of the District.

6. Have you been authorized by the District to present testimony at this hearing?

The District's Resolution No. 2025-01, attached to the Petition as Exhibit 6, specifically authorized me and other various District staff to act on behalf of the District in the boundary amendment process.

7. Are you familiar with the Petition to Expand the Boundaries of Peace Creek Village Community Development District filed by the District with the City of Winter Haven, Florida ("City") on or around October 7, 2024, the Revised Petition to Expand the Boundaries of Peace Creek Village Community Development District, filed by the District with the City on or around November 1, 2024, and the Second Revised Petition to Expand the Boundaries of Peace Creek Village Community Development District, filed by the District with the City on or around November 8, 2024 (collectively, "Petition") to amend its boundary?

Yes.

8. Have you reviewed the contents of the Petition and approved its findings?

Yes, I have.

9. Are there any changes or corrections to the Petition at this time?

No.

10. Are there any changes or corrections to any of the exhibits submitted to the City at this time?

No.

11. Please generally describe each of the exhibits attached to the Petition.

Exhibit 1 is a map showing the general location of the existing District and the Expansion Parcels.

Exhibit 2 is the metes and bounds description of the existing District.

Exhibit 3 is the metes and bounds description of the Expansion Parcels.

Exhibit 4 is the metes and bounds description of the Amended District.

Composite Exhibit 5 contains two documents titled *Consent and Joinder of Landowner to Inclusion in the Peace Creek Village Community Development District*, executed by Winterlake PH LP and Lake Wales Commons LP as landowners of the Expansion Parcels, which together represent the consent of one hundred percent (100%) of the owners of the lands to be included within the District.

Exhibit 6 is a copy of District Resolution No. 2025-01, adopted on October 3, 2024, authorizing the filing of the Petition.

Exhibit 7 is a map showing the future land use plan element of the City of Winter Haven Comprehensive Plan for the Amended District.

Exhibit 8 shows the major trunk water mains, sewer interceptors and outfalls within the existing District as well as the proposed drainage patterns within the Expansion Parcels.

Exhibit 9 is the list of expected improvements to be constructed and financed by the District, as well as the entities anticipated for future ownership, operation, and maintenance, along with the anticipated costs of these improvements.

Exhibit 10 is the Statement of Estimated Regulatory Costs ("SERC").

12. To the best of your knowledge, are the contents of the Petition and exhibits attached to it true and correct?

Yes.

13. Are you familiar with the areas that are proposed to be added to the District?

Yes.

14. In acres, approximately how large is the existing District?

The existing District is approximately 95.4 acres.

15. How many acres are being added to the proposed boundary amendment?

A total of 84.747 acres will be added resulting in a total of approximately 180.147 acres in the amended District.

16. Where are the Expansion Parcels located?

The Expansion Parcels are located within the City of Winter Haven, Florida.

17. What steps were taken with respect to filing the Petition?

On October 7, 2024, the District formally filed the Petition to Expand the Boundaries of the Peace Creek Village Community Development District with the City. The District paid a filing fee of $3,899.93 to the City. On November 1, 2024, the District filed a Revised Petition to Expand the Boundaries of the Peace Creek Village Community Development District with the City. On November 8, 2024, the District filed a Second Revised Petition to Expand the Boundaries of the Peace Creek Village Community Development with the City.

18. Has notice of the Public Hearing been provided in accordance with Section 190.005, *Florida Statutes*?

The Notice of Public Hearing will publish in the Lakeland Ledger on the following dates: November 15, November 22, November 29, and December 5.

19. Is the Lakeland Ledger a newspaper of general circulation in the City of Winter Haven, Florida and Polk County, Florida?

Yes, it is.

20. And do you have proof of publication of those notices?

Not at this time, but as soon as we receive the proof of publication at the conclusion of the notice run, we will provide this documentation to the City staff and submit an original proof of publication at the public hearing.

21. Are there residential units planned for development within the amended District?

Yes.

22. Are there residents currently living within the areas to be added to the District, and, if so, have they been notified about the expansion of the District?

No, there are no residents currently living within the Expansion Parcels.

23. Would you please describe the proposed timetable for development of land within the District?

The improvements and facilities to benefit the lands inside the District will be constructed in two (2) phases. The construction of the first phase is almost complete. The construction of the second phase begins in 2025. The development of the Expansion Parcels is anticipated to occur in a single phase commencing in 2025.

24. Would you generally describe the services and facilities you currently expect the District to provide?

The District expects to participate in the acquisition and/or construction of the stormwater management system (including stormwater ponds), roadway improvements, water and sanitary sewer systems, undergrounding of conduit, landscaping and hardscaping, and amenity facilities and related improvements. Capital costs of these improvements, including associated contingencies and professional fees, will be borne either by the District or by the developer. This boundary amendment will not change the development plan within the District.

25. Are these costs expected to include the cost of acquiring land from the developer?

No.

26. In general, what financing methods does the District propose that the District use to pay for the anticipated facilities and services?

The District will finance certain services and improvements through the issuance of tax exempt bonds. The debt issued by the District will be retired by funds from landowners in the form of "non-ad valorem" or "special" assessments on benefitted property within the District. Ongoing maintenance and operational activities will be funded by maintenance special assessments. At present, the District may issue bonds that will pay a portion of the cost of these facilities. Any facilities not financed with a bond issue will be funded by the developer through conventional bank financing.

27. Who will be responsible for paying the District's assessments?

Only those property owners, including the developer, within the District will be responsible for paying District assessments.

28. Will these debts of the expanded District be an obligation of the City or the State of Florida?

No. Florida law provides that community development district debt cannot become the obligation of a city, a county, or the state without the consent of that government.

29. Will this boundary amendment impair the District's ability to provide infrastructure to its existing lands or impair its ability to meet its maintenance and debt service obligations?

No. This boundary amendment will have no impact on the District's abilities to fulfill its obligations to its existing residents and landowners.

30. Does this conclude your testimony?

Yes.

BEFORE THE CITY COMMISSION OF THE
CITY OF WINTER HAVEN, FLORIDA

IN RE: PETITION TO EXPAND THE BOUNDARIES)
OF THE PEACE CREEK VILLAGE)
COMMUNITY DEVELOPMENT DISTRICT)

AFFIDAVIT ADOPTING WRITTEN PRE-FILED TESTIMONY

STATE OF FLORIDA
CITY OF Bartow

I, Steve Sloan, P.E., being first duly sworn, do hereby state for my affidavit as follows:

1. I have personal knowledge of the matters set forth in this affidavit.

2. My name is Steve Sloan, P.E., and I am employed by Sloan Engineering Group, Inc.

3. The prepared written pre-filed testimony consisting of five (5) pages, submitted under my name to the City Commission of the City of Winter Haven, Florida, relating to the Petition to Expand the Boundaries of the Peace Creek Village Community Development District, the Revised Petition to Expand the Boundaries of the Peace Creek Village Community Development District, and the Second Revised Petition to Expand the Boundaries of the Peace Creek Village Community Development District (collectively, "Petition") and attached hereto, is true and correct.

4. If I were asked the questions contained in the pre-filed testimony orally at the Peace Creek Village Community Development District boundary amendment hearing, my oral answers would be the same as the written answers presented in my pre-filed testimony.

5. My credentials, experience, and qualifications concerning land development and the construction of public infrastructure as a professional engineer and related matters are accurately set forth in my pre-filed testimony.

6. My pre-filed testimony generally addresses the nature of the proposed development plan of public infrastructure for the Peace Creek Village Community Development District.

7. No corrections or amendments to my pre-filed testimony or the Petition and its exhibits are required.

Under penalties of perjury, I declare that I have read the foregoing and the facts alleged are true and correct to the best of my knowledge and belief.

Executed this 14th day of November 2024.

Steve Sloan, P.E.

STATE OF FLORIDA
CITY OF Bartow

SWORN TO and SUBSCRIBED before me by the Affiant, by means of ☑ physical presence or ☐ online notarization, on this 14th day of November 2024, by Steve Sloan, P.E., who is personally known to me or who has produced _____ as identification.

KENDRA J ANDREWS
Notary Public - State of Florida
Commission # HH 461186
My Comm. Expires Aug 29, 2025
Bonded through National Notary Assn.

[notary seal]

(Official Notary Signature)
Name: Kendra J Andrews
Personally Known ✓
OR Produced Identification _____
Type of Identification _____

TESTIMONY OF STEVE SLOAN, P.E., FOR THE PEACE CREEK VILLAGE COMMUNITY DEVELOPMENT DISTRICT BOUNDARY AMENDMENT

1. Please state your name and business address.

Steve Sloan, 150 South Woodlawn Avenue, Bartow, Florida 33830.

2. By whom are you employed and in what capacity?

I am a Professional Engineer and am the President of Sloan Engineering Group, Inc.

3. How long have you been in the engineering field?

Over 20 years.

4. Does your firm, Sloan Engineering Group, Inc., represent the Peace Creek Village Community Development District?

Yes. My firm serves as District Engineer.

5. Please give your educational background, with degrees earned, major areas of study and institutions attended.

I received a Bachelor of Science degree in Environmental Engineering from the University of Florida in 1995.

6. Do you have any professional licenses, registrations, or certifications?

Yes. I hold a license as a Professional Engineer (#58766).

7. Have you been involved in any developments of the type and nature contemplated within the amended Peace Creek Village Community Development District ("District")?

Yes, my experience includes completion of civil engineering projects including site plans, residential subdivisions, public infrastructure projects, roadway improvements projects and parks projects.

My permitting experience includes project permitting through local, state and federal agencies for hundreds of local projects.

8. Are you familiar with the Petition to Expand the Boundaries of Peace Creek Village Community Development District filed by the District with the City of Winter Haven ("City"), on or around October 7, 2024, the Revised Petition to Expand the Boundaries of Peace Creek Village Community Development District, filed by the

District with the City on or around November 1, 2024, and the Second Revised Petition to Expand the Boundaries of Peace Creek Village Community Development District, filed by the District with the City on or around November 8, 2024 (collectively, "Petition") seeking to amend its boundary?

Yes. I assisted the District with the preparation of some of the exhibits filed with the Petition.

9. Are you generally familiar with the geographical area, type, and scope of development and the available services and facilities in the vicinity of the District?

Yes, I am.

10. Which documents did you prepare or have others prepare under your supervision?

Exhibits 1-4 and Exhibits 7-9.

11. Do any of those exhibits require any change or correction?

No.

12. Are Exhibits 1-4 and Exhibits 7-9 to the Petition true and correct?

Yes, to the best of my knowledge.

13. In general, what do Exhibits 1-4, and Exhibits 7-9 to the Petition demonstrate?

These exhibits demonstrate the general location and nature of the proposed improvements, as well as legal descriptions of the current district, lands to be added to the district ("Expansion Parcels"), the proposed District boundaries after expansion, the proposed drainage patterns in the Expansion Parcels, and the estimated costs of the construction. They designate the future general distribution, location and the extent of the public and private land uses proposed for the area to be added to the District by the future land use plan element of the City Comprehensive Plan.

14. What is the reason for the boundary amendment from an engineering and development standpoint?

The addition of the Expansion Parcels will conform the boundaries of the District to the anticipated boundaries of the overall project.

15. What capital facilities are presently planned or constructed by the District?

At the present, the District is expected to provide the stormwater management system (including stormwater ponds), roadway improvements, water and sanitary sewer systems, undergrounding of conduit, landscaping and hardscaping, and amenity facilities and related

improvements

16. Based upon your training and experience as an engineer, do you have an opinion as to whether the District, as amended ("Amended District"), will continue to remain of sufficient compactness, and sufficient contiguity to be developed as a functional interrelated community after expansion?

Yes. Based on my experience, the Amended District will remain of sufficient size, compactness and contiguity to be developed as a one functional interrelated community.

17. What is the basis for your opinion?

For many reasons the District facilities can be provided in an efficient, functional and integrated manner.

First, there are sufficient, significant infrastructure needs for the area within the District to allow development as a functionally interrelated community.

Second, the specific design of the community allows infrastructure to be provided in a cost-effective manner. The current District, along with the Expansion Parcels, is contiguous, which facilities an efficient and effective planned development. The Amended District, as proposed, will remain of sufficient size, compactness, and contiguity.

Third, the lands within the Amended District are conducive for the development of the community. The provision of services and facilities through the use of one development plan provides a contiguous and homogenous method of providing services to lands throughout the District.

18. In your opinion, you said the Amended District will continue to remain sufficiently compact and contiguous to be developable as a functionally interrelated community. Would you please explain what you mean when stating that the Amended District is of sufficient compactness?

The Amended District will encompass approximately 180.147 acres after expansion and will continue to provide a range of residential and residential-support land uses that require the necessary elements of infrastructure including roadways, potable water systems, wastewater systems, undergrounding of conduit, stormwater management, landscape and hardscape, recreational facilities and other improvements described in the Petition. After expansion, the Amended District will continue to have sufficient overall residential density to require all the above-mentioned necessary elements of infrastructure of a comprehensive community. These facilities and services require planning, design, financing, construction, and maintenance to provide the community with appropriate infrastructure. The preferred method of developing land, especially for higher density residential uses, is for the development to be spatially compact. This augments the Amended District's ability to construct and maintain improvements, and provide services, in a cost-efficient manner.

19. Does the expansion of the District obviate the need for local land development regulations, ordinances or plans?

No. Section 190.004 of the Florida Statutes explicitly provides that the establishment of a CDD does not in any way impact or change the applicability of any governmental planning, environmental and land development laws, regulations, and ordinances. A CDD cannot take any action that is inconsistent with the comprehensive plan, code of ordinances or regulations of the city or county within which it is located. Adding land to the District will not change this.

20. Based on your experience, do you have an opinion as to whether the services and facilities to be provided by the District, will be incompatible with the capacities and uses of existing local and regional community facilities and services?

Yes. It is my opinion that the proposed services and facilities of the Amended District will not be incompatible with the capacity and uses of existing local or regional community development services and facilities, and will complement the current services and facilities. The District has been providing services and facilities since its establishment and will continue to do so to the Amended District.

21. Based on your experience, do you have an opinion as to whether the area to be included within the Amended District is amenable to being served by a separate special district government?

Yes. In my opinion, and to the best of my knowledge, the area identified in the petition is amenable to being served by a separate special district government.

22. What is the basis for your opinion?

The District is limited in purpose and the infrastructure improvements to be provided by the District are limited in scope. This infrastructure is expected to directly benefit the development and may be adequately served by a special district government. In addition, special district governance provides a mechanism whereby long-term maintenance obligations can be satisfied by the persons primarily using the facilities and services.

23. Do you have an opinion, as someone experienced in land planning, as to whether the District, as amended, is a viable alternative for delivering community services and facilities to the areas that will be served by the Amended District?

Yes. It is my opinion that the Amended District remains the best alternative for providing the existing services and facilities as compared to a city, county or a property owners association.

From a planning perspective, the proposed Amended District is the best alternative available to provide the necessary infrastructure improvements. As a special-purpose local government, the District is a stable, long-term public entity capable of constructing,

maintaining and managing the proposed elements of infrastructure of the necessary facilities and services. The limited purpose and scope of the District, combined with the statutory safeguards in place, such as notice of public hearings and access to district records, would ensure that the District is responsive to the infrastructure needs of the District. The District would be able to obtain low-cost financing to provide the necessary improvements and then impose special or non-ad valorem assessments upon the property owners within the District to fund the infrastructure.

Only a CDD allows for the independent financing, administration, operations and maintenance of the land within the District. Only a CDD allows district property owners, and eventually residents, to completely control the district board and, therefore, the timing and extent of infrastructure improvement and maintenance. Knowing when, where and how infrastructure will be needed to service the projected population of an area allows for the smooth delivery of those facilities. The District exceeds other available alternatives at focusing attention to when and where and how the next system of infrastructure will be required for this specific area. This results in a full utilization of existing facilities before new facilities are constructed. It reduces the delivered cost to the citizens being served. All other alternatives do not have these characteristics.

24. In the course of your work in Florida, have you had an opportunity to work with the State Comprehensive Plan found in Chapter 187, *Florida Statutes*?

Yes. In the course of producing planning documents for private development proposals, I have often referred to the State Comprehensive Plan.

25. In the course of your work in Florida, have you had an opportunity to review local government comprehensive plans?

Yes. In fact, I have reviewed the City Comprehensive Plan many times in the course of my work.

26. Based upon your training and experience as a land development engineer, do you have an opinion as to whether the expansion of the existing District is inconsistent with any portion or element of the City Comprehensive Plan?

Yes, I do.

27. What is that opinion?

In my professional opinion, the proposed boundary amendment of the District is not inconsistent with any applicable provisions of the City's Comprehensive Plan.

28. Does this conclude your testimony?

Yes, it does.

BEFORE THE CITY COMMISSION FOR THE,
CITY OF WINTER HAVEN, FLORIDA

IN RE: PETITION TO EXPAND THE BOUNDARIES)
OF THE PEACE CREEK VILLAGE)
COMMUNITY DEVELOPMENT DISTRICT)

AFFIDAVIT ADOPTING WRITTEN PRE-FILED TESTIMONY

STATE OF FLORIDA
CITY OF Palm Beach

I, Craig Wrathell of Wrathell, Hunt & Associates, LLC, being first duly sworn, do hereby state for my affidavit as follows:

1. I have personal knowledge of the matters set forth in this affidavit.

2. My name is Craig Wrathell and I am a co-owner of Wrathell, Hunt and Associates, LLC. My business address is 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431.

3. The prepared written, pre-filed testimony consisting of five (5) pages, submitted under my name to the City Commission for the City of Winter Haven, Florida relating to the Petition to Expand the Boundaries of the Peace Creek Village Community Development District, the Revised Petition to Expand the Boundaries of the Peace Creek Village Community Development District, and the Second Revised Petition to Expand the Boundaries of the Peace Creek Village Community Development District (collectively, "Petition") and attached hereto, is true and correct.

4. If I were asked the questions contained in the pre-filed testimony orally at the Peace Creek Village Community Development District boundary amendment hearing, my oral answers would be the same as the written answers presented in my pre-filed testimony.

5. My credentials, experience and qualifications concerning the managerial and operational aspects of special districts are accurately set forth in my pre-filed testimony.

6. My pre-filed testimony addresses the various managerial and operational aspects related to the Petition to Expand the Boundaries of the Peace Creek Village Community Development District.

7. No corrections or amendments to my pre-filed testimony are required.

Under penalties of perjury, I declare that I have read the foregoing and the facts alleged are true and correct to the best of my knowledge and belief.

Executed this 14th day of November 2024.

Craig Wrathell

STATE OF FLORIDA
CITY OF Palm Beach

SWORN TO and SUBSCRIBED before me by Craig Wrathell, by means of ☑ physical presence or ☐ online notarization, on this 14th day of November 2024, who is personally known to me or who has produced _____ as identification.

MADISON TAPPA
Notary Public - State of Florida
Commission # HH 442300
My Comm. Expires Sep 11, 2027
Bonded through National Notary Assn.

[notary seal]

Madison Tappa
(Official Notary Signature)
Name: Madison Tappa
Personally Known _____
OR Produced Identification _____
Type of Identification _____

TESTIMONY OF CRAIG WRATHELL FOR THE PEACE CREEK VILLAGE COMMUNITY DEVELOPMENT DISTRICT BOUNDARY AMENDMENT

1. Please state your name and business address.

My name is Craig Wrathell. My business address is 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431.

2. By whom are you employed and in what capacity?

I am co-owner of Wrathell, Hunt & Associates, LLC ("WHA") and serve as District Manager and assessment administrator for community development districts.

3. Please briefly summarize your duties and responsibilities.

WHA provides management consulting services to community development districts and the real estate industry, including general management, accounting, recording, secretarial services, field services and assessment administration. WHA currently serves as the district manager for close to two hundred community development districts ("CDDs") in the State of Florida.

4. Do you work with both public and private sector clients?

WHA primarily works for public entities providing district management services. However, we are retained, from time to time, by private entities to consult on the creation of special districts as well as the viability of certain proposed developments.

5. Prior to your current employment, by whom were you employed and what were your responsibilities in those positions?

I have twenty-five (26) years of experience in providing management to special districts in the State of Florida. I have extensive knowledge of special districts, governmental budgeting and finance issues, and the development process.

6. Does your firm, Wrathell, Hunt & Associates, LLC, represent the Peace Creek Village Community Development District?

Yes. Wrathell, Hunt & Associates, LLC, serves as District Manager and Assessment Administrator.

7. Please describe your educational background.

I have a Master's degree in International Studies from the University of Miami and a Bachelor's degree in Political Science from Florida Atlantic University.

8. Please describe your work with community development districts in Florida.

Through WHA, the clients I serve are both resident-elected and landowner-elected CDDs, depending on the stage in the life of the development. I assist the various Boards of Supervisors and residents by managing the accounting, official recordkeeping, and operations and management of the assets acquired or constructed by the CDD. I have provided management services to numerous active CDDs across Florida.

9. Are any of those community development districts of about the same size as the Peace Creek Village Community Development District (the "District")?

Yes.

10. Are you familiar with the Petition to Expand the Boundaries of Peace Creek Village Community Development District, filed by the District with the City of Winter Haven ("City"), the Revised Petition to Expand the Boundaries of Peace Creek Village Community Development District, filed by the District with the City, on or around November 1, 2024, and the Second Revised Petition to Expand the Boundaries of Peace Creek Village Community Development District, filed by the District with the City on or around November 8, 2024 (collectively, "Petition"), seeking to amend its boundary?

Yes, I am. I have prepared Exhibit 10 to the Petition, the Statement of Estimated Regulatory Costs ("SERC").

11. Have you previously worked with other petitioners and prepared a Statement of Estimated Regulatory Costs?

Yes.

12. Are the contents of the SERC true and correct to the best of your knowledge?

Yes.

13. Are you generally familiar with the geographical area, type, and scope of development and the available services and facilities in the vicinity of the District?

Yes, I am.

14. Are you familiar with the parcels which the District seeks to add to its boundaries ("Expansion Parcels")?

Yes.

15. Does an amendment of a community development district impact or change the need for local land development regulations, ordinances, or plans?

No. Pursuant to Chapter 190, *Florida Statutes*, the establishment, amendment, or existence of a community development district does not change or impact the required permits for land development with respect to comprehensive planning, environmental, and governmental planning. Likewise, the District is required by law not to be inconsistent with the comprehensive plan of the state or of the local government. All land development and other regulatory criteria will remain in place with the amendment of the boundaries of the District.

16. Do you have an opinion based on your experience in management of community development districts as to whether the amended District, after expansion, remains the best alternative for delivering community services and facilities to the areas that will be served by the proposed amended District? If so, what is your opinion?

Yes, I believe the proposed amendment of the District is the best alternative for delivering community services and facilities to the area to be included within the District.

17. What is the basis of your opinion?

To date, the District has been the mechanism used to plan, finance, construct and operate the infrastructure within the District. The District has also planned and structured itself to serve the area proposed to be included now. Phase One construction of the infrastructure improvements is nearly completed and the District, and will be providing associated maintenance and operations services for that infrastructure. Expanding the proposed lands within the boundaries of the District will allow for the continued provision of facilities and services to the lands within the District. Accordingly, the District is the best alternative to provide the facilities and services to all of the lands within its boundaries.

18. Do you have an opinion, as someone experienced in district management and operations, as to whether the amended District is of sufficient size, is sufficiently compact, and sufficiently contiguous to continue to be developable as one functional, interrelated community?

Yes.

19. What is your opinion?

The proposed Amended District has sufficient land area and is sufficiently compact and contiguous to continue to exist and be developed with roadways, drainage, water and sewer, and other infrastructure systems, facilities and services. The District will continue to operate as one functionally interrelated community.

20. What is the basis for your opinion?

The qualities of compactness, contiguity, and size relate directly to whether an area can become one functional interrelated community. The addition of the Expansion Parcels to the boundaries of the District will not have any impact on the Amended District's ability to act as one functional, interrelated community. The acres within the District are sufficiently compact, contiguous and of sufficient size to maximize the successful delivery of these infrastructure improvements to these lands. The delivery of services and facilities to the lands within the district will not be hampered by insurmountable barriers or spatial problems. The area within the District is suitably configured to maximize the benefits available from the District services and facilities to be provided.

21. Do you have an opinion, as someone experienced in district management and operations, as to whether the area that will be served by the proposed amended District is amenable to separate special district government?

Yes.

22. What is your opinion?

The District, as amended, will continue to be of sufficient size, compactness, and contiguity. Therefore, the area to be served by the proposed district is clearly amenable to separate special-district governance. The configuration of the District as amended is not unlike other districts with which I have worked with over time. The District as amended will continue to be amenable to separate special district government.

23. What is the basis for your opinion?

Two criteria are needed to evaluate a land area as amenable to separate special district government: One, does the land area have need for the facilities and services and will its owners and residents benefit from facilities that the special district could provide? Two, is the land area of sufficient size, sufficient compactness, and sufficiently contiguous to be the basis for a functional interrelated community?

Under both criteria, the Amended District is a planned community with a need for certain facilities and services that are being constructed and/or acquired by the District, and that are currently or will be operated or maintained by the District. All facilities and services anticipated to be constructed, installed, acquired, operated and/or maintained by the District are located in the boundary of the proposed Amended District. As a result, the Amended District is an efficient mechanism to oversee the operation and maintenance of the public facilities and services that are anticipated to serve the residents within its boundary.

Additionally, the Amended District is of sufficient size, compactness and contiguity

to constitute one functionally interrelated community. As a result, the Amended District is amenable to separate special district government.

24. Do you have an opinion, as someone experienced in district management and operations, as to whether the community development services, and facilities of the district as amended will be incompatible with the capacity and use of existing local and regional community development services and facilities?

Yes.

25. What is your opinion?

The proposed services and facilities of the amended District are not incompatible with the capacity and uses of existing local or regional community development services and facilities. In fact, the amended District will continue to compliment local and regional services.

26. Does this conclude your testimony?

Yes.

DATE: November 22, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Eric Labbe, Director of Economic Opportunity and Community Investment
Cedric Cox, Asst. Director of Economic Opportunity and Community Investment

FROM: Diane Durr, Affordable Housing Programs Manager

SUBJECT: Florida Housing Finance Corporation (FHFC) Annual Incentive Strategies Report

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BACKGROUND

The Sadowski Affordable Housing Act, as approved by the Florida Legislature and codified as Chapter 420 of the Florida Statutes states that SHIP jurisdictions are required annually to convene the Affordable Housing Advisory Committee (AHAC) to review their current incentive strategies; complete an Annual Incentive Strategies Report which allows recommendations to be made to the local governing body; and, transmit the report to FHFC.

The AHAC convened on September 16, 2024 for the purpose of completing the review of existing incentive strategies and making recommendations regarding whether new strategies would be implemented. At the conclusion of the meeting the AHAC recommended the City continue to incorporate the four strategies presently included in the current LHAP, and incorporate four additional strategies from those identified in the Florida Housing Finance Corporation Guidance Document. The AHAC also requested staff futher assess the remaining (not implemented) strategies available. These recommendations were the basis for preparation of the Annual Incentive Strategies Report that is being presented to the City Commission.

As required, a formal publication was published in the Winter Haven Sun for the period beginning October 9, 2024 and ending November 10, 2024. The AHAC is scheduled to meet December 2, 2024, to discuss the final Annual Incentive Strategies Report and hold a public hearing to receive input. Feedback from that meeting will be shared with the City Commission when they consider approval of the Report and its transmittal to Florida Housing Finance Corporation (FHFC).

STRATEGIC PLAN ALIGNMENT

- Pillar: Quality of Life

- Goal: 2.1 – Take a strategic, creative, and locally-specific approach to maximize the availability of attainable (affordable, workforce, attainable) housing opportunities.
- Strategy: 2.1.4 – Ensure all available Local Housing Assistance Plan strategies are implemented annually.

FINANCIAL IMPACT

There is no financial impact.

RECOMMENDATION

Staff recommends the Commission approve the Annual Incentive Strategies Report and authorize the City Manager or his designee to submit said report to FHFC and take any necessary action related thereto.

ATTACHMENT

- Annual Incentive Strategies Report 2024

CITY OF WINTER HAVEN
AFFORDABLE HOUSING INCENTIVES REPORT
BY
WINTER HAVEN AFFORDABLE HOUSING ADVISORY COMMITTEE

1. BACKGROUND

The Sadowski Affordable Housing Act, as approved by the Florida Legislature and codified as Chapter 420.9076 (2) of the Florida Statutes, requires the development of an Affordable Housing Incentive Plan by all local governments electing to participate in the housing production and preservation initiatives authorized by the Act. The City of Winter Haven's Affordable Housing Advisory Committee (AHAC) members are appointed by the City Commission to serve two-year terms on the committee with the option to be re-appointed after the expiration of the initial term. The statute provides guidance as to how the AHAC is formed. The City, in adherence to this statute, has established the following.

Board Composition

The City's AHAC currently has nine members, eight of whom serve in one of the eleven statutorily defined categories below, and one elected official.

(a) A citizen who is actively engaged in the residential home building industry in connection with affordable housing.
(b) A citizen who is actively engaged in the banking or mortgage banking industry in connection with affordable housing.
(c) A citizen who is a representative of those areas of labor actively engaged in home building in connection with affordable housing.
(d) A citizen who is actively engaged as an advocate for low-income persons in connection with affordable housing.
(e) A citizen who is actively engaged as a for-profit provider of affordable housing.
(f) A citizen who is actively engaged as a not-for-profit provider of affordable housing.
(g) A citizen who is actively engaged as a real estate professional in connection with affordable housing.
(h) A citizen who actively serves on the local planning agency pursuant to s. **163.3174**. If the local planning agency is comprised of the governing board of the county or municipality, the governing board may appoint a designee who is knowledgeable in the local planning process.
(i) A citizen who resides within the jurisdiction of the local governing body making the appointments.
(j) A citizen who represents employers within the jurisdiction.
(k) A citizen who represents essential services personnel, as defined in the local housing assistance plan.

On Mar 18, 2024, the AHAC met to review incentives A-F in the Affordable Housing Incentive Report (the Report), and on June 3, 2024 the AHAC convened to review the remaining incentives G-K to make recommendations for implementation of the incentives, as required by statute. After careful review and consideration, the AHAC determined the following:

The AHAC recommended no changes to four (4) previously adopted incentive strategies. Those incentives are:

Incentive A – Expedited Permitting
Incentive C – Density Flexibility
Incentive E – Accessory Dwelling Units
Incentive J – Inventory of Public Lands Suitable for Affordable Housing

The AHAC recommended action for four (4) incentive strategies: Those incentives are:

Incentive B – Allowable Fee Waivers
Incentive D – Reservation of Infrastructure
Incentive F – Parking and Setback Reductions
Incentive I – Ongoing Review of Policies, Procedures, Ordinances, and Regulations

The AHAC recommended more research be conducted with respect to three (3) incentive strategies. Those incentives are:

Incentive G – Flexible Lot Configuration
Incentive H – Street Requirements Modifications
Incentive K – Support of development near transportation hubs, job centers, and mixed-use development

After properly advertising, and during the AHAC Meeting on Dec. 2, 2024, the AHAC committee reviewed the Report and conducted a public meeting to receive input on the Report. One member of the public was in attendance and there were no public comments received. The AHAC, with a quorum present, approved the Report and voted to transmit the Report to the City Commission for adoption and transmittal to the Florida Housing Finance Corporation.

2. PURPOSE

The purpose of the Report is to set out the deliberations and recommendations for monetary and non-monetary incentives targeting regulatory reform with respect to affordable housing, including the evaluation of the established policies, procedures, ordinances, land development regulations and the comprehensive plan. All recommendations should be designed to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value. The Report encompasses the specific recommendations of the AHAC for the current year 2024 annual report, and was placed on the December 16, 2024 Agenda for the City Commission in Regular Session after a public hearing occurred. This Report details existing City housing-related policies/procedures to be undertaken by the City in support of affordable housing incentives.

Listed below are the eleven incentives that are required to be reviewed and those of the eleven which have been adopted for the city.

A. Expedited Permitting (Required Incentive) **(Adopted)**
B. All allowable fee waivers provided for development of construction of affordable housing **(Adopted)**
C. Density Flexibility (**Adopted**)
D. Reservation of Infrastructure **(Adopted)**
E. Accessory Dwelling Units **(Adopted)**
F. Parking and Setback Reductions (**Adopted**)
G. Flexible Lot Configuration
H. Street Requirements Modifications
I. Ongoing review of Policies, Procedures, Ordinances, and Regulations (Required Incentive) **(Adopted)**
J. Inventory of public land suitable for affordable housing **(Adopted)**
K. Support of development near transportation hubs, job centers, and mixed-use development

3. AFFORDABLE HOUSING INCENTIVES

INCENTIVE A: Expedited Permitting (Required Incentive) (Adopted)

Permits as defined in s.163.3177 (6) (f) (3) for affordable housing projects are expedited to a greater degree than other projects.

Policy: 2035 Comprehensive Plan, Housing Element, Policy 2.2.3

Policy 2.2.3: Implement a streamlined review and permitting process for those developers who commit to building a minimum of ten percent (10%) of the housing units in a development as affordable units as defined by the Lakeland/Winter Haven MSA."

Process:

The City of Winter Haven's Affordable Housing Manager will notify all required reviewers, including but not limited to the Planning Division, Building Division, Fire, Natural Resources, Public Works, Police, Utilities, and Engineering of any qualified SHIP and/or affordable housing projects.

Any formal permit application, including but not limited to Development Review Committee Review, Plan Review, or Building Permit application shall be marked as AFFORDABLE HOUSING and prioritized for immediate review.

SHIP projects that require bidding and procurement shall be marked as AFFORDABLE HOUSING and prioritized for immediate review and disbursement.

Recommended action: No modifications recommended at this time.

INCENTIVE B: Allowable Fee Waivers/ Ongoing Review Process (Adopted)

An ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption and reduction or elimination of financial and regulatory barriers for public venues and essential services to the core area of the City.

Policy: 2035 Comprehensive Plan, Housing Element, Policy 2.2.2

Policy 2.2.2: Periodically review the City's impact fees to ensure that they are not resulting in an obstacle to the provision of affordable housing units. When it has been determined that there is a shortage in affordable housing, consider waiving or reducing impact fees to promote the development of affordable housing.

Process:

Prior to adoption of any new ordinance, procedure, regulation or plan, the City will consider the impact on the cost of housing pursuant to Goal Two, Objective 2.1 and related policies of the Housing Element of the City's Comprehensive Plan adopted August 28, 2023. Additionally, the core improvement area within the City of Winter Haven was established for the purpose of waiving certain city and county impact fees, excluding city water and sewer utility Impact Fees. In the Core Improvement Area, the City waives Police, Fire, Library, Parks and Recreations, and Transportation Impact Fees. The County waives impact fees on Schools, Jails, Emergency Medical Services (EMS), and Transportation. For affordable housing, locating in the City's Core gives residents better access to transit, medical services, recreational facilities, as well as educational and employment opportunities.

Recommended action: Write into codes a plan to reduce application fees based on the number units proposed to be affordable units. If 100% of units are affordable then all fees can be waived; if a minimum of 60% of units are affordable, then 75% of fees can be waived; if less than 50% are affordable, up to 50% of fees can be waived. This action has been adopted into code.

INCENTIVE C: Density Flexibility (Adopted)

Provide for a variety of housing types and densities as alternatives to single-family housing.

Policy: 2035 Comprehensive Plan, Housing Element, Policy 1.1.5

Policy 1.1.5: Work with the housing industry, on creating incentives, to provide a variety of housing types and options, from which the City's residents to choose. Ensure that land development regulations and zoning do not create barriers to the construction of alternatives to single-family detached housing such as condominiums, townhouses, apartments, loft apartments, and accessory residential units.

Process:

The land development code will be reviewed annually to identify any limitations based on density or housing type that may be restrictive to the development and construction of affordable housing.

Recommended action: No modifications recommended at this time.

INCENTIVE D: Reservation of Infrastructure (Adopted)

Policy: 2035 Comprehensive Plan, Housing Element, Policy 1.1.4, Policy 1.3.2

Policy 1.1.4: Ensure that sufficient, properly zoned land, with adequate infrastructure is available to meet the City's projected housing needs, thru 2035.

Policy 1.3.2: Survey infrastructure conditions, annually, to establish the existence of adequate service to vacant residential sites. Within older residential areas, annually complete capital projects to upgrade water, sewer, sewer, mobility, drainage, lighting, and recreation facilities to meet current adopted level of service standards.

Recommended action: Write into Section 21-315 (relating to the allocation of municipal services for i.e., potable water, wastewater roadway capacity) specific to affordable housing project (Section 163 F.S.) that such shall receive capacity reservation upon formal submittal of a site plan to the city for review in accordance with procedures established in Section 21-439 of the LDC, and that capacity reservation shall be prioritized and remain in effect for 36 months after approval. This action has been adopted into code.

INCENTIVE E: Accessory Dwelling Units (Adopted)

Ensure that there is ample opportunity for the construction of affordable accessory dwelling units.

Policy: 2035 Comprehensive Plan, Housing Element, Policy 1.3.6

Policy 1.3.5: Revise the land development regulations to allow for greater use of accessory residential units as an alternative, low impact, housing option in place of developing traditional single-family and multi-family units.

Process:

Land development regulations shall be reviewed annually and modified as necessary to ensure accessory dwelling units are encouraged and not unduly restricted.

Recommended action: No modifications recommended at this time.

INCENTIVE F: Parking and Setback Reductions (Adopted)

Policy: 2035 Comprehensive Plan, Housing Element, Policy 2.1.2

Policy 2.1.2: Reduce Or eliminate financial and regulatory barriers to private sector construction of affordable housing, by adopting standards and incentives which consider variable impact fee and utility rate structures, flexible zoning requirements, and flexible structural regulations.

Recommended action: Proposal to write into the Land Development Code (LDC) that affordable housing is defined by Chapter 163 of Florida Statutes will be reduced to 1.5 parking spaces per dwelling unit. This action has been adopted into code

INCENTIVE G: Flexible Lot Configuration

Policy: 2035 Comprehensive Plan, Housing Element, Policy 1.3.4.

Policy 1.3.4: Maintain land development regulations that encourage infill development and other patterns of compact urban growth by allowing for zero lot-line development, accessory units, floor area deduction, and smaller lot sites.

Recommended action: Further research to be conducted.

INCENTIVE H: Street Requirements Modifications

Policy: 2035 Comprehensive Plan, Transportation Element, Policy 1.12.3

Policy 1.12.3: The City shall consider the use of the following alternatives in order to minimize the impacts of heavy traffic volumes on residential neighborhoods:

- *Use of curved streets and cul-de-sacs*
- *Eliminating secondary access to commercial or other heavy traffic generators with access on local residential streets*
- *Traffic calming strategies such as bump-outs, chicanes, roundabouts, raised medians, speed humps/tables, road/street diets, and reduced speed limits*
- *On-street parking*

Recommended action: Further research to be conducted

INCENTIVE I: Method for Review of Processes, Procedures, Ordinances and Regulations (Required Incentive) **(Adopted)**

Policy: 2035 Comprehensive Plan, Housing Element, Policy 1.1.2

Policy 1.1.2: Continue to evaluate and amend land development regulations to eliminate impediments to development, which would inordinately increase housing costs or eliminate the profit motive of the private sector.

Process:

Annually, and in coordination with the development of the AHAC report, the AHAC and City staff shall review processes, procedures, ordinances and regulations and recommend any necessary modifications.

Recommended action: Ongoing dialogue and proposal of an annual summit with the city commission and planning commission as part of the City's new strategic plan to ensure alignment and understand trends and issues that are ongoing in the community that have a direct impact on how the city responds.

INCENTIVE J: Land Bank Inventory (Adopted)

The City's Department of Economic Opportunity and Community Investment shall maintain a list of City owned parcels suitable of affordable housing and work to identify privately owned parcels that may be utilized for affordable housing.

Policy: 2035 Comprehensive Plan, Housing Element, Policy 1.3.1

Policy: 1.3.1 Continue to track vacant residential parcels in the City. Include information on size, location, physical characteristics, access, utilities, zoning, and ownership.

Process:

City staff shall regularly update the list of City owned parcels suitable for affordable housing and work with private land owners to identify and encourage development of affordable housing.

Recommended action: No modifications recommended at this time.

INCENTIVE K: Support of development near transportation hubs, job centers, and mixed-use development

Policy: 2035 Comprehensive Plan, Transportation Element, Policy 1.1.10 & Policy 1.9.3

Policy 1.1.10: Coordinate with the TPO, Citrus Connection, and FDOT to establish strategies to reduce reliance on single occupancy automobile trips such as encouraging large employers to develop commuter assistance incentives for employees that carpool/vanpool, and/or utilize transit or non-motorized modes for commuter trips.

Policy 1.9.3: Support Citrus Connection applications for Federal or State grant programs and service developments which enhance transit ridership including amenities such as shelters and/or applications for funding of multi-modal connections, including facilities such as park and ride lots or remote parking areas with shuttle/express services for employees.

Recommended action: Further research to be conducted

DATE: November 22, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: C.J. Scott, Chief Financial Officer

SUBJECT: Banking Depository Services

BACKGROUND:

On August 21, 2024, the City issued Request for Qualifications (RFQ) 24-42 seeking submittals from qualified financial institutions (Banks) interested in providing banking depository services for the City's customer utility deposits. Currently, customer utility deposits reside in a non-interest-bearing account with a large commercial bank. The commercial bank also provides operational banking services for the City. The purpose of RFQ-24-42 is to transfer utility deposits, with an average balance of $6.5 million, to a local bank.

The intent of depositing funds in a local bank is to support the local economy. Local banks often reinvest a portion of their deposits in the community, which contributes to the growth and development of the area. Typically, local banks have a better understanding of local economic conditions and may be better equipped to provide financial solutions tailored to the community's needs. The RFQ for depository services aligns with the City's Exceptionally Local initiative.

The RFQ criteria included the evaluation of the Bank's Community Involvement and the Bank's intent/capacity to affect the local economy through the use of local labor, vendors, sub-contractors, and resources.

On September 20, 2024, the City received one proposal meeting all specifications for qualification.

On November 18, 2024 the City's Selection Committee met to discuss, score and develop a recommendation to the City Commission for their consideration. The Committee voted to recommend award to SouthState Bank and a Recommendation of Award was posted November 19, 2024. No protest was received in response.

FINANCIAL IMPACT:

There will be no financial impact to the City as all fees, including ancillary charges, will be absorbed by the Bank as a benefit of managing the depository account. The customer utility deposits will continue to reside in a non-interest-bearing account.

STRATEGIC PLAN ALIGNMENT

- Pillar: Responsible Government
- Goal: 6.1 – Exemplify fiscal accountability and resiliency.
- Strategy: 6.1.5 – Research and pursue alternative revenue sources and partnership opportunities to enhance financial sustainability and resiliency.

RECOMMENDATION:

Staff recommends the City Commission award RFQ-24-42 to SouthState Bank and authorize the City Manager to take all actions necessary and incidental thereto.

ATTACHMENTS:

- RFQ-24-42 Bid Tab Sheet
- RFQ-24-42 Recommendation of Award

RFQ-24-42
September 20, 2024
City of Winter Haven
Tabulation of Proposals

Banking Depository Services

Firms submitting proposals:	SouthState Bank Fort Lauderdale, FL	Citizens Bank & Trust Winter Haven, FL ***Did Not Meet Requirements***

Prepared by: Bethany Owen Date: November 19, 2024

City of Winter Haven
Financial Services

11/18/2024

Recommendation of Award of RFQ-24-42

Banking Depository Services

The City of Winter Haven PSC / Evaluation Committee has ranked the responsive proposal received for the above-referenced Request for Qualifications and will recommend award to SouthState Bank.

The Committee's recommendation will be submitted to the City Commission for their consideration of award.

Thank you to all firms interested in this project.

Bethany Owen
PROCUREMENT MANAGER

DATE: November 21, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Amanda-Jo Nicholson, Assistant to the City Manager

SUBJECT: Authorization for Travel and Training

BACKGROUND

In April 2011, the City Commission amended the City's Policy Relating to the "Travel and Training Expenses for Both Officials, Employees, and City-Sponsored Boards and Committees". As part of the amended policy, any travel and training for the City Manager and City Commissioners must be presented to the City Commission for pre-authorization prior to attending a convention, conference or training program.

In accordance with the City Commission's Policy, authorization is requested for the following:

Event:	Florida Black Caucus of Local Elected Officials (FBC-LEO) 2025 Spring Conference
Dates:	February 26-28, 2025
Location:	Kissimmee, FL
Attendees:	Mayor Nathaniel, J. Birdsong, Jr. & Commissioner Clifton Dollison

FINANCIAL IMPACT

Registration $275 per attendee. Hotel, plus mileage & per diem. Expenses associated with the travel and training outlined above will be accounted for within the City Commission cost center.

STRATEGIC PLAN ALIGNMENT

- Pillar: Responsible Government
- Goal: 6.2 – Engage and participate in legislative matters (State & Federal) and advocate for Home Rule and local priorities.
- Strategy: 6.2.1 – Strategically engage in local, State and national professional organizations and coalitions.

RECOMMENDATION

Staff recommends the City Commission authorize travel as outlined above.

ATTACHMENT

- 2025 FBC-LEO Conference Agenda

AJ Nicholson

From: Florida Black Caucus of Local Elected Officials <fbcleo@flcities.com>
Sent: Friday, November 15, 2024 3:33 PM
To: AJ Nicholson
Subject: 2025 FBC-LEO Annual Conference - Save the Date

CAUTION: This email originated OUTSIDE of City of Winter Haven. ***DO NOT CLICK LINKS or OPEN ATTACHMENTS*** unless you recognize the sender and know the content is safe.



FBC-LEO 40th ANNIVERSARY

2025 EVENT SCHEDULE

Florida Black Caucus of Local Elected Officials

FBC-LEO Conference Schedule 2025

(subject to change)

This event will be February 27-28, 2025, at the Embassy Suites Lake Buena Vista South, Kissimmee, FL.

We look forward to seeing you there!

THURSDAY, FEBRUARY 27, 2025

8:30 a.m. - 5:00 p.m.	**Registration Desk Open**
9:00 a.m. - 9:30 a.m.	**New Member/First-Time Attendee Session**
9:30 a.m. - 10:00 a.m.	**Opening Address and Welcome**
10:00 a.m. - 10:30 a.m.	**Business Meeting**
10:30 a.m. - 11:00 a.m.	**Opening Keynote Address**
11:00 a.m. - 12:00 p.m.	**Session 1**
12:15 p.m. - 1:30 p.m.	**Networking Luncheon**
2:00 p.m. - 3:00 p.m.	**Session 2**
3:15 p.m. - 4:00 p.m.	**Session 3**
4:15 p.m. - 5:00 p.m.	**Session 4**
7:00 p.m. - 10:00 p.m.	**President's Dinner**

FRIDAY, FEBRUARY 28, 2025

8:00 a.m. - 12:00 p.m.	**Registration Open**
9:00 a.m. - 10:45 a.m.	**Session 5**
11:00 a.m. - 12:00 p.m.	**Closing Keynote Address**
12:00 p.m.	**Conference Adjourns**

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DATE: November 21, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Amanda-Jo Nicholson, Assistant to the City Manager

SUBJECT: Authorization for Travel and Training

BACKGROUND

In April 2011, the City Commission amended the City's Policy Relating to the "Travel and Training Expenses for Both Officials, Employees, and City-Sponsored Boards and Committees". As part of the amended policy, any travel and training for the City Manager and City Commissioners must be presented to the City Commission for pre-authorization prior to attending a convention, conference or training program.

In accordance with the City Commission's Policy, authorization is requested for the following:

Event:	Florida City & County Managers Association (FCCMA) Winter Conference
Dates & Location:	January 29-31, 2025, Clearwater, FL
Attendees:	City Manager Stavres & Deputy City Manager Carnevale

FINANCIAL IMPACT

Registration $385 per attendee, plus hotel/per diem/travel. Expenses associated with the travel and training outlined above and will be accounted for within the City Manager's cost center.

STRATEGIC PLAN ALIGNMENT

- Pillar: Responsible Government
- Goal: 6.2 – Engage and participate in legislative matters (State & Federal) and advocate for Home Rule and local priorities.
- Strategy: 6.2.1 – Strategically engage in local, State and national professional organizations and coalitions.

RECOMMENDATION

Staff recommends the City Commission authorize travel as outlined above.

DATE: November 25, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Troy Heidel, Airport Director

SUBJECT: Approval of an Equipment Purchase Agreement for Remote Digital Tower equipment between Frequentis USA, Inc. and the City of Winter Haven

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BACKGROUND

On May 8, 2023, the City Commission approved Resolution R-23-29, a Public Transportation Grant Agreement with the Florida Department of Transportation (FDOT) for the Design and Construction of the Digital Remote Air Traffic Control Tower Project at the Winter Haven Regional Airport.

The scope of this project includes the design and construction of a digital remote air traffic control tower at the Winter Haven Regional Airport that will operate from a control center located at the Bartow Executive Airport. This involves a purchase agreement between the City of Winter Haven and Frequentis USA. Frequentis USA will supply and integrate the necessary digital remote air traffic control technology and equipment essential for the operation of the control tower. This collaboration ensures that the advanced technological requirements of the project are met, facilitating enhanced air traffic control capabilities at the Winter Haven Regional Airport.

FINANCIAL IMPACT

This Digital Remote Air Traffic Control Tower Purchase Agreement with Frequentis USA includes a cost of $859,753.00, which was budgeted for in FY25 and is 100% reimbursable through FDOT Grant G2H30. The purchase is via an approved Sole Source to provide compatibility with Bartow Executive Airport equipment.

STRATEGIC PLAN ALIGNMENT

- Pillar: Infrastructure Pillar
- Goal: 3.4 – Pursue emerging opportunities to embrace new technology, infrastructure, and enterprise opportunities.

- Strategy: 3.4.1 –Incorporate advanced transportation and infrastructure systems that leverage technology for enhanced effectiveness and efficiency in the delivery of municipal services.

RECOMMENDATION

Staff recommends the City Commission approve the attached Purchase Agreement with Frequentis USA, Inc., a Maryland corporation authorized to transact business in the State of Florida and authorize the City Manager to take all further necessary actions related thereto.

ATTACHMENT

- Frequentis Equipment Purchase Agreement

Equipment Purchase Agreement

This Equipment Purchase Agreement (this "Agreement") is made this 11th day of April 2024 between Frequentis USA, INC., a Maryland corporation authorized to transact business in the State of Florida ("Seller") and the City of Winter Haven, Florida, a municipal corporation, organized and existing under the laws of the State of Florida, having its principal office 451 Third Street, N.W., Winter Haven, Florida 33830 ("City").

RECITALS

City desires to purchase a Remote Digital Tower equipment and the design, installation, integration, and documentation services associated with implementation and maintenance of Remote Digital Tower equipment at the City of Winter Haven Regional Airport at Gilbert Field (the "RDT" or the "Equipment"), as more particularly described on Exhibit A attached hereto, from Seller, and Seller desires to sell the RDT to City.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, the parties agree as follows:

1. GENERAL AND DEFINITIONS

1.1. This Equipment Purchase Agreement (hereinafter "Agreement") governs transactions by which the City purchases Hardware, Software and/or Services from the Seller

1.2. This Agreement follows these conventions unless the context otherwise requires:

a) singular includes the plural and vice versa.

b) reference to a gender includes the other gender and the neuter; and

c) the headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

1.3. Unless the context otherwise requires, the following expressions in capitalized letters shall be defined as follows:

Acceptance	City's written acknowledgement of the delivery and completion of the RDT
Agreement	The contract authorized and signed by the City and accepted by the Seller in writing (this document)
Attachments	Additional terms and conditions for the RDT to be supplied (e.g., technical descriptions or specifications, delivery schedules les, etc.) contained in documents attached to the Offer.
City	City of Winter Haven, Florida
Customer Furnished Equipment	Material, equipment, engineering data and information provider by City to Seller and required in the performance of the Agreement
Customer Furnished Service	Point-to-Point Wide Area Network Data Service
Documentation	All written material to be provided by Seller to City in accordance with the Agreement.
Equipment	All Hardware, Software, and Services or parts thereof to be supplied by Seller to the City according to the Agreement.

Hardware	All equipment and components thereof to be delivered by Seller in accordance with the Agreement.
Party/Parties	Individually the Seller or the City; jointly are referred to as “the Parties”.
RDT	All Hardware, Software, and Services or parts thereof to be supplied by Seller to the City according to the Agreement.
Seller	Frequentis USA, Inc.
Seller’s Technology	Seller’s Hardware, Software, Documentation, technology, and/or direct products thereof
Services	All services to be rendered by the Seller to the City according to the Agreement.
Software	The executable object code version of the software to be delivered to the City, including agreed software documentation and firmware in accordance with applicable Seller licensing requirements.

1.4. If there is a conflict among the terms of this Agreement and the Attachments, the following order of prevalence shall apply: 1) Agreement accepted by Seller, 2) Attachments

1.5. Any standard conditions of the City or reference to its terms and conditions are not valid unless approved in writing by the Seller.

2. PURCHASE AND SALE OF EQUIPMENT

2.1. Subject to the terms and conditions of this Agreement, Seller will sell, convey, transfer, install and deliver to City, free and clear of all pledges, liens, security interests, charges, or other encumbrances, at the purchase price provided for in this Agreement, the Equipment as set forth on Exhibit A (the "RDT" or the "Equipment") which is attached hereto and incorporated herein as if set out in full in the body of this Agreement.

2.2. Subject to the terms of this Agreement and in reliance on the representations and warranties set forth in this Agreement, City shall purchase the Equipment at Closing (as defined in this Agreement) and in full consideration for the Equipment, will pay to Seller $859,753.00 which shall be payable as outlined in Exhibit A (RDT Solution, Payment Milestone, and Delivery Schedule).

2.3. All prices are exclusive of any duties, taxes, including but not limited to federal, state, and local sales, withholding, excise, value added, or goods and services taxes, and any other taxes, levies, fees, royalties, or charges unless otherwise specified in the Offer. The City is exempt from the payment of sales tax. Any and all taxes, levies, fees, royalties, or charges will be paid by the Seller when due unless otherwise specified in writing.

2.4. City shall not assume or be liable for any costs, expenses or liabilities of Seller which arise as a result of this sale.

2.5. All payments (Exhibit A. Section 1. RDT Solution Item 2 only) shall be made by ACH electronic funds transfer, by wire to an account designated by the Seller, or in check form, in US Dollars (USD), to Frequentis USA, Inc., 8661 Robert Fulton Drive, Suite 100, Columbia, MD 21046. All payments are due and shall be made in full without deduction, counterclaim, withholding or offset in accordance with the provisions of Section

218.70, et. seq. of the Florida Statutes (Florida Prompt Payment Act). Each Party shall bear its own bank fees, as applicable.

2.6. Unless contested in good faith, payments received more than thirty (30) calendar days after the due date of the invoice will incur a late-payment charge in the amount of the lesser of one and one-half percent (1.5%) of the unpaid balance or the applicable limit (if any) set by law for each month or fraction thereof that such balance shall remain unpaid.

2.7. Costs associated with any standards, regulations, technical requirements, special documentation, or any specific type of approvals of City or from City's state of business, other than those explicitly mentioned in this Agreement or in any other document associated with this Agreement, are not included in the price.

2.8. Nothing in the Agreement shall be construed to require Seller to provide any portion of the Equipment if City is delinquent in its payment in accordance with this Article 2.1.

2.9. Seller reserves the right to charge additional costs incurred and/or adjustment to the delivery schedule if the City has not fulfilled its obligations in accordance with the Agreement.

3. CUSTOMER FURNISHED EQUIPMENT AND SERVICE

3.1. Certain material, equipment, engineering data and information are set forth in Exhibit A as the "Customer-furnished Equipment" (and hereinafter referred to as "CFE") and are to be provided by City.

3.2. Point-to-Point Wide Area Network Data Service is set forth in Exhibit A as the "Customer-furnished Service" (and hereinafter referred to as "CFS") and is to be provided by City.

3.3. Price for the Equipment is exclusive of the costs of CFE and CFS, which shall be supplied and delivered by City to Seller, at the City's cost and expense.

3.4. Seller shall undertake to install the agreed CFE without extra cost to the City, provided that they are delivered by the City to the Seller in sufficient time to permit installation without delaying construction of the system

3.5. City shall procure and install CFS between the Bartow and Winter Haven location without cost to the Seller.

3.6. Installed CFS service shall provide suitable bandwidth and stability as required and agreed during the design review.

3.7. Delivery of the CFE shall be in accordance with a reasonable time schedule, designated by the Seller and made available to the Seller prior to the start of any impacted construction activity.

3.8. Should any or all of the CFE arrive late and should the Seller and City mutually agree to have Seller install those CFE so delayed, any change in construction time directly resulting from such late arrival shall accordingly extend the Delivery Date.

3.9. All CFE shall be subject to the Seller's reasonable right of rejection in the event the same are found to be unsuitable or not in proper condition for installation.

3.10. The Seller shall not be responsible for the quality or capability of the CFE and shall not be liable for any defect in the CFE; however, the Seller shall receive and upon receipt safely store and insure, against loss or damage, all the said CFE.

4. DELIVERY AND ACCEPTANCE

4.1. Seller shall deliver the new, fully operational Equipment as per the "Site Acceptance Complete" milestone delineated in the Payment Milestone and Delivery Schedule table in Exhibit A (RDT Solution Payment Milestone and Delivery Schedule) to the City at the address specified in Exhibit A.

4.2. Delivered Equipment shall include all CFE received by Seller in the course of the performance of the agreement.

4.3. Shipping terms are F.O.B. Destination in the United States per Incoterms 2010.

4.4. Seller shall not, in any event, be liable for any delay or failure to deliver resulting from circumstances which are beyond the reasonable control of the Seller.

4.5. Timely performance by the Seller is conditional upon timely fulfilment of City's obligations set forth in the Agreement, including the provision of all items, documents and approvals to be furnished by the City in accordance with the Agreement, documents and approvals required outside of the scope of this Agreement, including any documents necessary for shipment, official permits, Government permits and documentation, to have the Hardware and Software supplied, if any, and the Services rendered and observance of the terms of payment.

4.6. Shipments will be deemed to have been accepted by the City upon delivery of said shipments to the City unless rejected upon receipt in writing. City shall perform all inspections and tests the City deems necessary as promptly as possible but in no event later than seven (7) calendar days after delivery of the Hardware and/or Software, at which time City will be deemed to have irrevocably accepted the products. Any discrepancy in shipment quantity must be reported within seven (7) calendar days after delivery.

4.7. Any product returned by City due to City's fault/error may be subject to a restocking charge equivalent to 100% of the value of such product as specified in Seller's invoice to City.

4.8. Delays in acceptance shall not affect payment in accordance with Article 2.2.

5. REPRESENTATION AND WARRANTIES OF SELLER

5.1. Seller makes the following representations and warranties, each of which is true and correct on the date of this Agreement or shall be true on the date of closing.

a) Seller is a corporation duly organized and validly existing under the laws of Maryland; is transacting business in the State of Florida; and, has full power and authority to offer the Equipment for sale and to comply with the terms of this Agreement without limitation.

b) On delivery to the City, Seller shall have good and marketable title to the Equipment and all its components, and the Equipment shall not be subject to any pledges, liens, security interests, charges, or other encumbrances.

c) Seller represents and warrants that the Equipment delivered to the City shall be new and in perfect operating condition when accepted by the City.

d) Seller shall use its reasonable efforts in good faith to take or cause to be taken as promptly as practicable all reasonable actions that are within Seller's power to obtain FAA Certification for a Digital Tower system.

6. REPRESENTATIONS AND WARRANTIES OF CITY

6.1. City has full power and authority to own property and to carry on its business as an airport sponsor as it is now being conducted.

6.2. City has full power and authority to enter into this Agreement and to perform its obligations under this Agreement, and no other or further consent, approval, or action, governmental or otherwise, is required to be taken or obtained by City in this Agreement to perform all its obligations and to affect the transactions pursuant to, and in the manner contemplated by, this Agreement.

7. CLOSING

7.1. Time and Place. The closing under this Agreement for the sale and purchase of the Equipment shall take place on or immediately following the date of acceptance of the Equipment by the City as per the "Site Acceptance Complete" milestone delineated in the Payment Milestone and Delivery Schedule table in Exhibit A (RDT Solution, Payment Milestone, and Delivery Schedule), at Winter Haven Regional Airport, 2073 US-92, Winter Haven, FL, 33881 (the "Closing"), unless otherwise agreed to in writing by the parties.

7.2. Seller shall deliver to City, upon full payment of the Equipment under this Agreement:

a) A Bill of Sale and Assignment for the Equipment and all manufacturer's warranties for each component part, which shall be effective to vest in City good and marketable title to the Equipment, and to all manufacturers' warranty claims, free and clear of all pledges, liens, security interests, charges and other encumbrances in a form reasonably acceptable to the City.

b) The Equipment and associated operations and maintenance documentation to the Winter Haven Regional Airport at the specific location directed by the City.

7.3. City shall deliver to Seller the payment of the amounts called for by Section 2, paragraph 2.2, of this Agreement, by ACH electronic funds transfer, wire to an account designated by the Seller, or in check form.

7.4. All risk of damage or loss to the Equipment provided under the Agreement shall remain with Seller based on delivery as FOB Destination for U.S. shipments per Incoterms 2010 at which time it shall pass to the City.

8. WARRANTY

8.1. Seller warrants the Frequentis provided Hardware and Software against defects in material and workmanship, under normal use for a period of thirty-six (36) months after date of shipment.

8.2. In case of any failure to meet the Technical Specification subject to normal use conditions, Seller shall rectify such failure free of charge during the warranty period. It is within Seller' sole discretion to repair or replace the defective Hardware or part or component thereof.

8.3. The warranty period for third-party components (i.e. any item not manufactured by the Seller, but purchased by Seller and provided as part of an Agreement, such as radios, servers, monitors, headsets, handsets, foot switches, microphones, keyboards, software etc.) shall be in accordance with the third-party warranty, irrespective of the warranty period for the Seller hardware and shall not exceed the warranty period defined in Section 8.1. Third-party warranties shall pass through to the City and the warranty period shall be the time period remaining following Seller receipt/acceptance of the third-party components. In no event shall any warranty extend beyond the period noted in Section 8.1.

8.4. Seller's Software warranty obligations shall be fulfilled at Seller' sole discretion either by telephone helpdesk support, remote login, or on-site support. Corrections of Software failures by Seller shall be

performed within a reasonable time, considering the impact of the failure. Software failures must be reproducible in order to be covered under warranty.

8.5. Seller's warranty obligations do not cover natural wear and tear, City furnished equipment or software, or damage owing to faulty or negligent handling by the City or a third party, excessive strain, unsuitable materials for operation, deficient civil engineering Equipment, environmental, chemical, electro-chemical, electro-magnetic, electrostatic, mechanical or electrical influences in excess to the stipulations of the agreed Technical Specification and such other influences as are customarily not associated with the use of electronic equipment.

8.6. Seller is not liable for any and all actions or (warranty) claims resulting from:

c) unauthorized alterations or changes to the Equipment; or

d) the combination, connection, or addition of Software and/or Hardware not supplied or approved by Seller carried out by the City or a third party; or

e) any actions by City or a third party* not maintaining and/or operating the systems in accordance with the then applicable Seller Documentation.

* Unless third party is certified by Seller for maintenance of Seller Equipment.

In such cases, any remaining warranty shall become null and void.

8.7. Unless specified otherwise in the Agreement, City shall send, at its own cost, the defective Hardware, part or component thereof to the Seller' designated facility and Seller will return, at its own cost, the repaired or replaced Hardware, part or component thereof to City's site. All other warranty procedures are in accordance with the applicable Seller manufacturer's warranty. Each party will be responsible for following applicable import/export regulations in their respective countries and will provide support to the other as required for timely receipt of goods.

8.8. Any replaced or repaired product is warranted for the remainder of the initial warranty period.

8.9. To the fullest extent permitted by the applicable law, the warranty set forth herein is City's sole and exclusive warranty and is in lieu of all other warranties, expressed or implied, oral or written.

SELLER HEREBY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY OR CONDITION OF NON-INFRINGEMENT.

9. LIMITATION OF LIABILITY

9.1. Only to the extent permitted by law as to the City, and not to exceed the limitations set forth in §768.28 of the Florida Statutes, the Parties agree to indemnify and hold harmless the other Party from any and all claims, demands, losses, causes of action, damages, lawsuits, and judgments, including reasonable proven attorneys' fees and costs (including but not limited to attorney's fees and costs in trial, appellate, bankruptcy and/or administrative forums), to the extent caused by the performance (or non-performance) associated with each Party's obligations. By giving any indemnities herein the City does not intend to waive its sovereign immunity and/or the limits of the City's liability as set forth in §768.28 of the Florida Statutes regardless of whether any such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise

10. FORCE MAJEURE

10.1. Cases of force majeure include, but are not limited to armed conflicts, terrorist acts, war, revolutions, serious destruction, explosion, fire, floods, severe weather, shortage of water, earthquake, epidemics, pandemic, risk for Seller personnel in the state of the City, quarantine restrictions, embargoes, obtaining necessary licenses, general boycott of systems to be imported or produced by Seller, strikes, lockouts, acts of government in either its sovereign or contractual City, freight-embargoes, UN-embargoes, legal proceedings which hinder, prevent or impede the performance by Seller hereto of any obligations herein, and any event beyond the reasonable control of either Party, and force majeure of a subcontractor. The affected Party shall inform the other Party without any unreasonable delay about a force majeure event and shall keep the other Party reasonably informed about the actual status during a force majeure case.

10.2. The Party affected by force majeure shall not be liable for the consequences of any failure to perform or default in performing an obligation under an Agreement, if failure to perform such obligation is caused by force majeure.

10.3. Where there has been a failure caused by force majeure, the said failure shall not be considered as a non-compliance with any term or condition of the Agreement. The time of performance of the obligations, which could not be performed due to force majeure, shall be extended adequately.

11. CONFIDENTIALITY

11.1. To the extent permitted by Florida law, and notwithstanding the public records requirements of Chapter 119 of the Florida Statutes and other Florida public records laws and regulations, each Party shall treat as confidential all information, data and documents that are marked confidential or proprietary and which it receives in performance of the Agreement and shall neither notify nor make available or transfer the same to third parties but shall only use the same for fulfillment of its activities under the Agreement. Seller manufacturing and design documents, such as drawings, models and the like constitute trade secrets of Seller and shall not be used by City, nor may they be offered or delivered to third parties without explicit, advanced, written authorization by Seller. All rights to such documents, intellectual property rights and copyrights, shall remain with Seller. The documents may only be used for the purposes of the Agreement. Both parties will use reasonable efforts to store and maintain the security of confidential information shared by the other party. Each party's efforts to maintain confidentiality will be no less than those efforts that party makes to maintain the security and confidentiality of its own confidential and proprietary information. Confidential information shall be returned or destroyed upon the sharing party's request.

11.2. If confidential information exchanged under the Agreement is categorized as classified matter, the relevant official and/or military security requirements shall be observed independent of and in addition to these confidentiality provisions. Each party is responsible and liable for its own observation and satisfaction of its applicable government security requirements.

11.3. Each Party may refer to an existing business relationship under the Agreement and use the name or the logos only with the written prior consent of the other Party.

11.4. The confidentiality obligation shall exist for a period of five (5) years after completion of the Agreement.

12. INTELLECTUAL PROPERTY INFRINGEMENT

12.1. Seller shall fully indemnify the City against all actions, claims, demands, proceedings, damages, costs, including attorney's fees at trial, appellate, bankruptcy, and/or administrative forums, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of patent, design,

copyright or other intellectual property rights by the normal use or possession of the Equipment delivered by Seller under the Agreement, provided that the City: i) promptly notifies Seller in writing of any infringement of which he has notice; ii) does not make any admission without Seller' written consent; and iii) allows Seller upon its request and at its expense to conduct and/or settle all negotiations and litigation, providing Seller all reasonable assistance.

12.2. The indemnity as per above Article 12.1, shall not apply where infringement or alleged infringement arises due to the City's use of the Equipment with equipment or material not approved or provided by Seller or due to a modification of or alteration to the Equipment carried out without Seller' prior written consent.

12.3. If at any time any allegation or infringement of letters patent, registered design, copyright, or other intellectual property rights is made in respect of any parts provided or for modifications made to the Equipment, Seller shall at its own expense and at its discretion:

a) either modify or replace such infringing portions of the Equipment to make them non-infringing, without detracting from the overall performance of the Equipment; or

b) procure to City the right to continue using the Equipment containing such infringing portions.

13. INTELLECTUAL PROPERTY RIGHTS

13.1. City shall not acquire title to the intellectual property rights to any part of the Equipment including, without limitation, Seller' Software, embedded code, firmware or any third- party software and Documentation which may be supplied hereunder. All intellectual property rights, including but not limited to the right to patent, copyright, trademark, and design rights in the Equipment and Documentation arising and created under or in connection with the Agreement, shall remain at all times vested in Seller and/or its suppliers and licensors.

13.2. City acknowledges that the Software and Documentation qualify as a "Commercial Item," as defined in Federal Acquisition Regulation ("FAR") (48 C.F.R.) Part 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation" as used in FAR 12.212.

13.3. Seller grants (or shall procure the grant) to City:

a) Upon delivery of the Equipment: a non-exclusive, non-transferable right to use the Software in accordance with the Seller Software License Agreement and to the extent required for the proper installation, testing, trialing or conduct of the relevant Acceptance procedures for the purpose agreed in the Agreement and for no other purpose; such license shall expire three (3) months after delivery; and

b) Upon Acceptance: a non-exclusive, non-transferable, right to use the Software for the purpose agreed in the Agreement and for no other purpose; such license shall expire three (3) months after expiry of the warranty period; and

c) Upon full payment of the price: a non-exclusive, non-transferable, right to use the Software for the purpose agreed in the Agreement and for no other purpose; such license shall be granted perpetually or expire as defined in the Agreement.

13.4. The Software may include third-party or open-source components. The respective usage rights are governed solely by the terms and conditions that apply to it. A list of third-party and open-source components, including the relevant terms and conditions of usage, can be found in the product description and the user Documentation. The City is obliged to keep any copyright notices. The City may be required by Seller to enter into a separate license agreement.

13.5. With regard to any Documentation and Software and subject to the City's compliance with Florida's Public Records laws, the City undertakes not to disclose or make available any part or parts thereof to any third party without prior written consent of Seller or make any reproductions/copies.

13.6. The City is obliged to keep any copyright notices on any authorized copy made.

14. DISPUTE RESOLUTION

14.1. The Parties agree to make good faith efforts to resolve any disputes initially through discussion between the Parties. All disputes under this Agreement that are not resolved by mutual agreement may be decided by recourse to an action at law or in equity.

14.2. Any controversy, dispute, or claim arising out of or relating to this Agreement shall be settled by legal action in the appropriate State or Federal court within the jurisdiction covering Polk County, Florida.

14.3. This Agreement and any controversy, dispute or claim arising out of or relating to the Agreement shall be governed by the Applicable Law in Article 16.

15. AGREEMENT CHANGES/TERMINATION FOR DEFAULT

15.1. Cancellation – The City may request that the Agreement be changed, rescheduled or cancelled only by written request submitted to Seller. All such requests, unless related to a termination for default, shall be subject to written acceptance by Seller. Such acceptance shall be based upon an equitable adjustment to the Agreement due to the change or cancellation. Seller shall have Equipment on the original Agreement until written agreement between the Parties is reached.

15.2. Termination for Default - Except in the event of a delay due to a force majeure event according to Article 10 above or causes beyond the reasonable control and without the fault or negligence of either of the Parties, the affected Party will issue a written cure notice to the other Party citing default. Such cure notice shall include specific contract references citing non-performance. The party receiving the cure notice will have fourteen (14) calendar days to provide a written plan to cure and ninety (90) calendar days to cure the alleged breach.

If, after fourteen (14) calendar days of receipt of such cure notice, the defaulting Party has not provided a written plan to cure, the affected Party may commence to terminate in whole or any part of the Agreement by issuing a written notice to terminate for default.

Such notice to terminate for default shall become effective if the defaulting Party does not cure or make reasonable efforts to cure such failure within a period of fourteen (14) calendar days after receipt of the notice to terminate for default or such longer period as the affected Party may authorize in writing.

In the event of termination by Seller under this Article, Seller shall be entitled at its option, either to (i) receive from the City the contractual price of the Equipment already delivered, or (ii) require the City to return all or parts of the Equipment delivered, and refund City the payments received for such Equipment.

In the event of termination by the City, under this Article, the City shall pay the contractually corresponding prices for the Equipment.

16. APPLICABLE LAW

16.1. This Agreement shall be governed and construed in accordance with the substantive Law of the State of Florida without reference to any other laws.

16.2. In case of any conflicts arising out of or in relation to this Agreement, the exclusive place of jurisdiction shall be the applicable State or Federal court in Florida.

17. EXPORT CONTROL

17.1. City certifies that it will be the recipient of the Equipment/Seller Technology under this Agreement and that such Equipment/Seller Technology is subject to export controls under the laws and regulations of the United States ("U.S."), including but not limited to the International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR), and any other applicable countries' laws and regulations. City shall comply with such laws and regulations governing export, re-export, import, transfer and use of the Equipment/Seller Technology and will obtain all required U.S. and local authorizations, permits, or licenses. Each Party agrees to provide the other information, support documents, and assistance as may reasonably be required by the other in connection with securing authorizations or licenses.

17.2. City agrees that the Equipment will not be shipped, transferred or exported to any party on the U.S. Department of Commerce Bureau of Industry and Security's Specially Designated Terrorist (SDT) list, Specially Designated Global Terrorist (SDGT) list, Unverified List (UVL), Entity List or Denied Persons List; any party designated by the U.S. Treasury Department's Office of Foreign Assets Control, including, but not limited to Specially Designated National and Blocked Persons (SDN) list; or any party debarred or sanctioned by the U.S. State Department, and into any country or used in any manner prohibited by the relevant export laws and regulations of the United States and other countries ("Export Laws").

17.3. City agrees to inform Seller in writing about its intent to (re)export any Seller Technology, Hardware, or Software at the time of order. All requests are subject to Seller' prior written approval.

18. MISCELLANEOUS

18.1. The Agreement as confirmed by Seller in writing, shall constitute the entire agreement and understanding between the Parties and contain all covenants, stipulations and provisions agreed upon by the Parties on the subject matter thereof, and shall supersede all prior proposals, agreements, and negotiations, whether written or oral, relating to such subject. Any amendments to the Agreement shall be effective only if made in writing and countersigned by the authorized representative of each Party.

18.2. If a provision of the Agreement is unlawful or not enforceable, the validity of the remaining Agreement shall not be affected thereby, and the Parties shall substitute the provision concerned with another provision considered to be largely equivalent.

18.3. The failure of either Party to enforce any provision of these terms and conditions shall not be construed to be a waiver of such provision or the right thereafter to enforce that provision. No waiver by either Party, either express or implied, of any breach of these terms and conditions shall be construed as a waiver of any other breach of such terms or conditions.

18.4. The Agreement shall bind and inure to the respective Parties and their legal successors and agreed assigns. Except for the foregoing, the rights and obligations contained herein cannot be assigned to a third party without a written approval of the other Party.

18.5. Notices under this Agreement shall be effective if hand delivered, deposited in the United States mail, postage prepaid, registered or certified, return receipt requested, or sent by facsimile, receipt confirmed, addressed as follows:

If to Seller: Frequentis USA, Inc.
Farzin Sadjadi
Contracts Manager
8861 Robert Fulton Drive, Suite 100
Columbia, MD 21046
Farzin.sadjadi@frequentis.com

If to City: City of Winter Haven, Florida
T. Michael Stavres, City Manager
451 Third Street, N.W.,
Winter Haven, Florida 33830

and

City of Winter Haven, Florida
Troy Heidel, Airport Director
2073 U.S. Highway 92 West
Winter Haven, Florida 33881

and with a copy to:
(*which shall not constitute notice*)
Frederick J. Murphy, Jr., Esquire
City Attorney
Boswell & Dunlap LLP
245 South Central Avenue
Bartow, Florida 33830

Either party may change the address to which notices are to be addressed by giving the other party notice in the manner set forth in this paragraph.

18.6 Public Records Compliance.

To the extent Seller is deemed to be a "Contractor" for the City pursuant to Section 119.0701(1)(a) of the Florida Statutes (2022), Seller agrees to:

(a) Keep and maintain public records required by the City to perform the Services specified herein.

(b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if Seller does not transfer the records to the City.

(d) Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of Seller or keep and maintain public records required by the City to perform the

service. If Seller transfers all public records to the City upon completion of the Agreement, Seller shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Seller keeps and maintains public records upon completion of the Agreement, Seller shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City upon request from the City's custodian of public records, in a format that is compatible with the City's information technology systems.

IF SELLER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO SELLER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-291-5623, 451 THIRD STREET, N.W., WINTER HAVEN, FLORIDA 33881, RECORDS@MYWINTERHAVEN.COM.

If Seller does not comply with a public records request, the City shall enforce the Agreement, which may include immediate termination.

18.7 Sovereign Immunity; Limitation of City's Liability.

City is a sovereign Florida municipal government. The Parties agree that nothing contained in the Agreement shall be construed to waive the City's sovereign immunity. With respect to the matter of compensation for work performed, or the price of goods sold, the Parties agree that the total liability of the City to the Seller shall not exceed the agreed-upon price established in the Agreement, or any related purchase order, subject to annual appropriation performance contingencies. For all other matters, the Parties agree that the total liability of the City to the Seller shall not exceed the limits of the City's liability as determined by the State of Florida's waiver of sovereign immunity as set forth in § 768.28(5) of the Florida Statutes (2024), regardless of whether any such obligations are based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. The Parties agree that both Parties not be liable to for any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature for any reason, including loss of profit, whether foreseeable or not, whether arising out of or resulting from non-performance or breach of the Agreement, and whether any such claim is based in contract, common law, warranty, tort, strict liability, contribution, or otherwise.

18.8 **Audit Rights**

The City reserves the right to audit the records of Seller related to compensation issues and for a period of one (1) year after final payment is made. Failure of Seller to maintain sufficient auditable records will authorize the City to determine, at its sole and conclusive discretion, the time and cost expended from information maintained by Seller, work performed pursuant to this *Agreement*.

18.9 **Compliance with Applicable Laws; New Regulations; Ethical Warranty**

(a) Seller agrees to comply with all federal, state, and local laws or ordinances applicable to all of the provisions of this *Agreement*.

(b) Seller agrees that at such time as the local, state, or federal agencies modify their grant procedures in order for the City or Seller to qualify for local, state or federal funding for the services to be rendered and/or equipment provided by Seller hereunder, then Seller shall consent to and make such modifications or amendments in a timely manner. If Seller is unable to comply with applicable local, state, or federal laws and regulations governing the grant of such funds for services to be rendered and/or equipment provided herein, then the City shall have the right, by written notice to Seller, to terminate this *Agreement* for convenience.

(c) Seller represents and warrants unto the City that no officer, employee, or agent of the City has any interest, either directly or indirectly, in the business of Seller to be conducted hereunder. Seller further represents and warrants unto the City that it has not employed or retained any company or person, other than a bona fide employee working solely for Seller, to solicit or secure this *Agreement*, and that it has not paid, or agreed to pay, or given or offered any fee, commission, percentage, gift, loan, or anything of value to any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Seller, in consideration for or contingent upon, or resulting from the award or making of this *Agreement*. Further, Seller also acknowledges that it has not agreed, as an expressed or implied condition for obtaining this *Agreement*, to employ or retain the services of any person, company, individual or firm in connection with carrying out this *Agreement*. It is absolutely understood and agreed by Seller that, for the breach or violation of this representation and warranty, the City shall have the right to terminate this *Agreement* without liability and at its sole discretion, and to deduct from any amounts owed, or to otherwise recover, the full amount of any percentage, gift, loan, or anything of value paid by Seller. Seller shall also require, by contract, that all of its subcontractors if authorized and/or applicable shall comply with the provisions of this representation and warranty.

(d) *Scrutinized Companies.* Section 287.135 of the Florida Statutes states that a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with the City for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the *Scrutinized Companies that Boycott Israel List*, created pursuant to Section 215.4725 of the Florida Statutes or is engaged in a boycott of Israel; or for One Million Dollars ($1,000,000.00) or more if, at the time of bidding on submitting a proposal for, or entering into or renewing a contract, the company is on the *Scrutinized Companies with Activities in Sudan List*, the *Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List*, created pursuant to Section 215.473 of the Florida Statutes, or is engaged in business operations in Cuba or Syria. By executing this *Agreement*, Seller certifies that it does not and did not at any time since the submission of a response to the initial solicitation participate in a boycott of Israel; that it is not on the *Scrutinized Companies that Boycott Israel List*, *Scrutinized Companies with Activities in Sudan List*, or the *Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List*; and that it does not engage in business operations in Cuba or Syria. Seller understands that a false certification may subject it to civil penalties, attorneys' fees and costs pursuant to Section 287.135 of the Florida Statutes and that the City may terminate this *Agreement* at the City's option if the Seller is found to have submitted a false certification.

(e) *Public Entity Crimes; Convicted Vendor List.* A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. By executing this *Agreement*, Vendor certifies that it is not on the convicted vendor list.

(f) *Drug-Free Workplace.* By executing this *Agreement*, Seller certifies that it has a drug-free workplace and has a substance abuse policy in accordance with and pursuant to Section 440.102 of the Florida Statutes.

(g) *E-Verify.* By entering into this *Agreement*, the Seller becomes obligated to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the Seller and any subcontractor hired by the Seller. If the Seller enters into a contract with a subcontractor, the

subcontractor must provide the Seller with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of this *Agreement*, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this *Agreement* is terminated for a violation of the statute by the Seller, the Seller may not be awarded a public contract for a period of 1 year after the date of termination.

(h) *No Consideration of Social, Political, and Ideological Interests.* Seller acknowledges receipt of notice from the City of the provisions of Section 287.05701 of the Florida Statutes which prohibits local governments from giving preference to a prospective Seller based on the prospective Seller's social, political or ideological interests or requesting documentation from, or considering, a prospective Seller's social, political, or ideological interests when determining if the prospective Seller is a responsible vendor. Seller affirms and agrees that the City did not request any documentation about, or give any consideration to, the Seller's social, political, or ideological interests in the award of this *Agreement*.

(i) *Contracting with Foreign Entities.* By executing this *Agreement*, Seller certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, Seller certifies that no government of a Foreign Country of Concern has a "controlling interest" in Seller as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the Seller organized under the laws of a Foreign Country of Concern, nor does the Seller have its principal place of business located in a Foreign Country of Concern. If this *Agreement* permits the Seller to access the personal identifying information of any individual, Seller agrees to notify the City in advance of any contemplated transaction that would cause Seller to be disqualified from such access under Section 287.138 of the Florida Statutes. Seller agrees to furnish the City with an affidavit signed by an officer or representative of the Seller under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

(j) *Human Trafficking Affidavit*. Seller shall be required to execute the Human Trafficking Affidavit attached hereto as **Exhibit "B"** simultaneously with and prior to providing any services and/or equipment hereunder.

[Signature page to follow.]

The parties have executed this Equipment Purchase Agreement at authority of Winter Haven, Florida the day and year first set forth above.

SELLER: Frequentis USA, Inc.
a Maryland company authorized to transact business in the State of Florida

By: _____
Farzin Sadjadi, Contracts Manager

City: City of Winter Haven

By: _____
T. Michael Stavres, City Manager

Approved as to form and legal sufficiency:

_____
City Attorney

Exhibit A

RDT Solution, Payment Milestone, and Delivery Schedule

1. RDT Solution

1.1. Seller shall deliver a compliant RDT system to the City as per the technical requirements and process requirements described in Attachment 1 – KBOW-KGIF RDT Statement of Work.

1.2. Seller shall deliver a RDT system as conceptualized and described in Attachment 2 – KBOW-KGIF RDT Project Solution Description. Please note – the detailed system architecture described in the project solution description is notional. Seller will baseline the exact RDT system architecture, which meets the Attachment 1 – KBOW-KGIF RDT Statement of Work requirements, at Critical Design Review (CDR) stage.

1.3. Notional Scope of Delivery for the RDT is described in the table below:

2	**KGIF Remote Tower Optical System (RTOS) Work Package, includes the followings**	**Lot**	
2.1	360º Visual Panoramic Camera Array including housing, mechanical mounts, lens cleaning and associated cabling	1 Set	
2.2	Advanced Pan Tilt Zoom (PTZ) Camera with visual and thermal sensors, and integrated light gun. Includes mounting brackets and associated cabling	1 Set	**$859,753.00**
2.3	Standard Pan Tilt Zoom (PTZ) Camera with visual sensor. Includes mounting brackets and associated cabling	1 Set	
2.4	KBOW RTOS Visual Panoramic Array software package	1 Set	
2.5	KBOW RTOS PTZ Cameras software package	1 Set	
4.1	**Technical Services Packages, includes the followings**	**Lot**	
4.2	Project, Quality and Configuration management	Lot	
4.3	Kick-off meeting	1	
4.4	System design and architecture engineering	Lot	
4.5	Critical Design Review (CDR)	1	
4.6	Equipment staging and integration with CFE equipment	Lot	
4.7	Site installation of technical equipment	Lot	**Included**
4.8	Camera mounting on mast	Lot	
4.9	Configuration, calibration, and checkout	Lot	
4.10	Site Acceptance Test (SAT)	1	
4.11	RTC operations assistance / support (onsite or remote), max two (2) weeks	Lot	
4.12	Technical training (up to 5 days course)	1	
4.13	Operational training (up to 3 days course)	1	
Total	Warranty on all delivered hardware and software - 12 months from acceptance on site or 18 months from receipt of equipment delivery on site (whichever is shorter)	1	

2.1. City is responsible for providing commercial hardware (servers, PC workstations, monitors, LAN equipment) listed in Attachment 4, in the RTC operations center, for processing and display of RTOS data from KBOW and KGIF.

2.2. Seller will support the City, with necessary technical details, in procurement of the correct commercial hardware for the RDT. The following table provides the notional list of CFE equipment.

3. Customer Furnished Service

3.1. City is responsible for providing Wide Area Network (WAN) service, as specified in the table below, for communication between RTOS equipment at Winter Haven and data processing / display equipment at RTC operations center at the Winter Haven Regional Airport at Gilbert Field.

No	Link	Quantity	Specification	Link Characteristics
1	IP	1	Winter Haven – Bartow	Bandwidth: 1.0 GBps Latency: 50ms max Jitter: 10ms max Packet loss: <0.1% Connectivity: Layer 2 connection

4. Delivery Address:

City of Winter Haven

2073 US-92

Winter Haven, FL 33881

Attention: Troy Heidel, Airport Director

5. Payment Milestone and Delivery Schedule:

All days are considered calendar days.

Estimated Dates	Milestone	Payment	Deliverable No	Deliverable Name
PA + 1 week	Kick Off Meeting	30%	CDRL001	Preliminary Design Document
PA + 3 weeks	Design Review Complete	30%	CDRL002	Final Design Document
PA + 6 Months*	Factory Configuration Complete	20%	CDRL003	Factory Configuration Report
PA + 9 Months**	Equipment Delivery	10%	CDRL004	Equipment Delivery Report

PA + 360 Days**	Site Acceptance Test is Complete	10%	CDRL005	Site Acceptance Test Report

** Milestone timelines may vary than the estimated dates as noted above depending on the availability date of RTC operations center equipment at Frequentis facility.*

*** Estimated dates are dependent upon site readiness with camera mast and RTOS operations center.*

6. Customer Dependencies

6.1. City shall be responsible for perform the siting, procurement and installation of the remote digital tower mast, perform all required survey and geotechnical work to include construction inspection and material testing costs; mobilization and demobilization, all earthwork and electrical work of the new mast site, cables, conduits, lightning protection, and structural concrete, pavement repairs, and sodding, the operations room preparation, including electrical and HVAC equipment, all room buildout and required furniture to include desks, controller chairs, as well as coordination with all necessary agencies; permitting; testing, and commissioning.

6.2. Notional RDT Mast specification is provided in Attachment 3 – Notional RDT Mast Specification document.

6.3. The City shall comply with required Aviation Program Assurances.

7. Assumptions, Additional Limitations

7.1. City shall provide the remote digital tower mast and associated civil works (including cranes for mast installation and extension arms for hoisting camera array onto the mast)

7.2. Hoisting of Seller's camera equipment onto the mast shall be considered part of mast installation.

7.3. Seller's equipment delivery is depending on the completion of the mast construction

7.4. City shall consult the Seller with respect to mast specifications to include height, design, and structure.

7.5. City shall perform all site preparation activities such as provision of RTC operations center, provision of power and comms for RTOS and RTC operations equipment, prior to Seller's engineering personnel arrival on site for installation and integration.

7.6. City shall provide site access and facility access to Frequentis engineering personnel for all installation and support services.

7.7. City shall provide all CFE hardware listed in chapter 2 Customer Furnished Equipment and drop ship them to Seller's facility for integration.

7.8. City shall provide the RTC operations center to accommodate RTOS processing and the RTC controller working position equipment.

7.9. City shall consult the Seller with respect to RTC operations room design, and furniture selection

7.10. City shall consult the Seller with respect to IT equipment room design

7.11. City shall provide AC Mains power, backup power (UPS) and/or Generator for RTOS equipment outdoor and RTC equipment.

7.12. City shall provide communications network (preferably fiber) and associated equipment to connect the RTC operations room to the base of the RTOS camera mast at Winter Haven Regional Airport.

7.13. City shall provide WAN service as noted in Chapter 3 Customer Furnished Service for communication between RTOS camera mast in Winter Haven and RTC operations room at Bartow.

7.14. City shall consult the Seller for power needs, and IT cabling concept

7.15. City shall authorize the Seller to provide remote maintenance support via firewall-protected and encrypted remote access.

7.16. Seller is committed to its installations and will provide maintenance and system support services for at least ten years. This commitment may require midlife upgrades to IT equipment and software to adhere to new technologies.

7.17. Seller optional software maintenance includes at least one upgrade per year, to perform bug fixes, security updates and feature upgrades as available in the standard Frequentis product

7.18. The equipment and services pricing for RDT assumes no regulator (FAA) certification will be required.

EXHIBIT "B"

HUMAN TRAFFICKING AFFIDAVIT

Florida Statute §787.06(13) requires all nongovernmental entities executing, renewing, or extending a contract with a governmental entity to provide an affidavit signed by an officer or representative of the nongovernmental entity under penalty of perjury that the nongovernmental entity does not use coercion for labor or services as defined in that statute.

As the officers or representatives of the Seller, we certify that the Seller identified above does not, for labor or services,

- Use or threaten to use physical force against any person;
- Restrain, isolate, or confine or threaten to restrain, isolate, or confine any person without lawful authority and against his or her will;
- Use lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied towards the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
- Destroy, conceal, remove, confiscate, withhold, or possess any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification, of any person;
- Cause or threaten to cause financial harm to any person;
- Entice or lure any person by fraud or deceit;
- Provide controlled substances as outlined in Schedule I or Schedule II of Florida State Statute §893.03 to any person for the purpose of exploitation of that person.

Frequentis USA, Inc., a Maryland corporation,
Authorized to transact business in the
State of Florida:

Executed this 13 day of November, 2024.

By: _____
Name:
Title:

Under penalty of perjury, I hereby declare and affirm that the above stated facts are true and correct.

STATE OF Maryland

COUNTY OF Baltimore

The foregoing instrument was sworn to and subscribed before me by means of ☑ physical presence or ☐ online notarization, this 13 day of November, 2024, by Farzin Sadjadi, as Contracts Mgr of **Frequentis USA, Inc., a Maryland corporation, authorized to transact business in the State of Florida**, ☑ who is personally known to me, or ☐ produced _____ as identification.

Notary Public Signature

[AFFIX NOTARY SEAL]

Print Notary Name: Wade Nieberlein

My commission expires: 8-1-2025



DATE: November 22, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Hiep Nguyen, Smart City Officer

SUBJECT: Purchase of Illumio Zero Trust Segmentation (ZTS) Software Platform Subscription from SHI (Somerset, NJ)

BACKGROUND

Microsegmentation is a cybersecurity technique that isolates individual workloads within a network. Essentially, it breaks down the network environments into tiny segments to protect critical assets by only allowing necessary traffic between them. By doing so, lateral movement by attackers are restricted, and the attack surface is minimized. This improves the City's ability to detect and contain cybersecurity breaches.

The Illumio Zero Trust Segmentation software platform provides the following features and capabilities:

- Micro-Segmentation: enables the City to implement fine-grained access controls, minimizing the attack surface and preventing lateral movement of threats.
- Real-Time Visibility: gives the City comprehensive visibility into network traffic and application communications, allowing staff to detect and respond to threats in real-time.
- Software Integration: integrates with existing security tools and infrastructure.
- Adaptive Policy Enforcement: enforces security policies based on user identity, application characteristics, and other contextual information, allowing for adaptive security measures.
- Cloud-Native Architecture: scales and allows the City to adapt to changing IT environments, including hybrid and multi-cloud setups.

The subscription is for a three-year term and includes professional implementation services, annual training, and enterprise support.

FINANCIAL IMPACT

The total subscription cost is $143,842.54 for the three-year term. The first-year cost is $60,376.82, budgeted within the Internal Service Fund for Fiscal Year 2025. This purchase leverages the Sourcewell cooperative purchasing contract.

STRATEGIC PLAN ALIGNMENT

- Pillar: Community Safety
- Goal: 5.1 – Ensure protection of technological resources and infrastructure through proactive approach to cybersecurity
- Strategy: 5.1.1 – Perform internal and external cybersecurity penetration testing for vulnerabilities – hardening of systems – in alignment with NIST best management practices.

RECOMMENDATION

Staff recommends the City Commission approve the purchase of the Illumio Zero Trust Segmentation software platform subscription for $143,842.54 for a three-year term and authorize the City Manager to execute all documents and take all other necessary actions related to purchase approved herein.

ATTACHMENT

- Illumio Quote from SHI

Pricing Proposal
Quotation #: 25339931
Created On: 9/23/2024
Valid Until: 12/31/2024

FL-City of Winter Haven

Hiep Nguyen
451 3rd Street Northwest
Winter Haven, FL 33881
United States
Phone: (863) 291-5600
Fax:
Email: hnguyen@mywinterhaven.com

Inside Account Executive

Thomas Morrow
290 Davidson Ave Somerset, NJ 08873
Phone: 732-564-8522
Fax: 732-564-8224
Email: Thomas_Morrow@shi.com

All Prices are in US Dollar (USD)

	Product	Qty	Your Price	Total
1	Illumio Zero Trust Segmentation Platform Illumio - Part#: IL-ZTS-WL-SEG Contract Name: Sourcewell- Technology Products & Solutions Contract #: 121923-SHI Coverage Term: 12/31/2024 – 12/30/2025	180	$190.04	$34,207.20
2	Illumio Enterprise Support: 7x24 availability: Phone, email and web; Remote response; All maintenance releases and software updates; Full access to the Support web site resources and self-paced training Illumio - Part#: IL-SPT-ENT Contract Name: Sourcewell- Technology Products & Solutions Contract #: 121923-SHI Coverage Term: 12/31/2024 – 12/30/2025	1	$7,525.66	$7,525.66
3	Professional Services - per Hour charge (excluding T&E); - For any set of tasks as outlined in the ILPS-HR data sheet and agreed upon with the customer.; Tasks can include Consultancy, PCE deployment and integrations, VEN deployment and strategy,and Lab Illumio - Part#: IL-PS-HR Contract Name: Sourcewell- Technology Products & Solutions Contract #: 121923-SHI Coverage Term: 12/31/2024 – 12/30/2025	40	$386.52	$15,460.80
4	Training Annual Subscription: Illumio Core - per student, nontransferable - Unlimited instructor-led online public classes and self-paced training videos. 2 exams and 1 retake. Illumio - Part#: IL-PS-TRN-SUB Contract Name: Sourcewell- Technology Products & Solutions Contract #: 121923-SHI Coverage Term: 12/31/2024 – 12/30/2025	1	$3,183.16	$3,183.16
5	Illumio Zero Trust Segmentation Platform Illumio - Part#: IL-ZTS-WL-SEG Contract Name: Sourcewell- Technology Products & Solutions Contract #: 121923-SHI Coverage Term: 12/31/2025 – 12/30/2026	180	$190.04	$34,207.20

6	Illumio Enterprise Support: 7x24 availability: Phone, email and web; Remote response; All maintenance releases and software updates; Full access to the Support web site resources and self-paced training Illumio - Part#: IL-SPT-ENT Contract Name: Sourcewell- Technology Products & Solutions Contract #: 121923-SHI Coverage Term: 12/31/2025 – 12/30/2026	1	$7,525.66	$7,525.66
7	Illumio Zero Trust Segmentation Platform Illumio - Part#: IL-ZTS-WL-SEG Contract Name: Sourcewell- Technology Products & Solutions Contract #: 121923-SHI Coverage Term: 12/31/2026 – 12/30/2027	180	$190.04	$34,207.20
8	Illumio Enterprise Support: 7x24 availability: Phone, email and web; Remote response; All maintenance releases and software updates; Full access to the Support web site resources and self-paced training Illumio - Part#: IL-SPT-ENT Contract Name: Sourcewell- Technology Products & Solutions Contract #: 121923-SHI Coverage Term: 12/31/2026 – 12/30/2027	1	$7,525.66	$7,525.66
			Total	$143,842.54

Additional Comments

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order.

SHI International Corp. is 100% Minority Owned, Woman Owned Business.
TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.

PARTICIPATION AGREEMENT

THIS PARTICIPATION AGREEMENT is made as of the 4th day of June in the year 2024, between **THE CITY OF WINTER HAVEN, FLORIDA,** a Florida Municipal Corporation, whose address is 451 Third Street NW, Post Office Box 2277, Winter Haven, Florida 33883-2277 (hereinafter referred to as the "CITY"), and SHI International Corp. 290 Davidson Ave, Somerset NJ 08873, (hereinafter referred to as the "CONTRACTOR").

WITNESSTH:

WHEREAS, Sourcewell is a local government unit, public corporation and public agency under the laws of the state of Minnesota.

WHEREAS, Sourcewell, formerly National Joint Powers Alliance, was created by Minnesota state law as a service cooperative to provide programs and services to members in education and government.

WHEREAS, the CITY is a member of Sourcewell under member ID #176873 and is eligible to participate in all Sourcewell awarded contracts.

WHEREAS, use of cooperative purchasing agreements can provide additional benefits to the CITY such as expedited procurement and cost savings resulting from larger contract awards than the CITY would be able to achieve on its own;

WHEREAS, the CITY Procurement Manager has reviewed the Sourcewell solicitation and award process documentation and has found the Sourcewell process to be in compliance with CITY policy and sound Public Procurement Best Practices.

WHEREAS, on March 19, 2024, Sourcewell awarded a Request for Proposal (RFP) #121923 for Technology Equipment, Products or Services.

WHEREAS, Sourcewell fully evaluated and ranked all proposals received in response to RFP #121923;

WHEREAS, on March 20, 2024, Sourcewell and CONTRACTOR entered into a Contract as a result of RFP #121923;

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

1. **Recitals.** The above recitals are true and correct and are incorporated herein.

2. **Commodities.** CONTRACTOR hereby agrees to provide the CITY with Technology Equipment, Products or Services under the Sourcewell Contract. Nothing herein shall limit the CITY'S right to obtain proposals or services from other contractors for same or similar work. CONTRACTOR may also provide to the CITY additional related commodities that may not be on schedule/contract and considered to be Open Market commodities. The cost of Open Market commodities may be negotiated between the parties, subject to compliance with applicable Procurement requirements, if any.

   During the term of this Participation Agreement, any negotiated price, terms or discounts may not be less favorable to the CITY than the price, terms or discounts approved by Sourcewell or any other participating government agency.

3. **Agreement.** This Participation Agreement and the Sourcewell Contract #121923-SHI ("Contract") set forth the entire agreement between the parties.

4. **Terms and Conditions.** The terms and conditions of the Contract between CONTRACTOR and Sourcewell entered into on March 20, 2024, are hereby expressly incorporated by reference into and made a part of this Participation Agreement. In the event of a conflict between the terms and conditions of the Contract and this Participation Agreement, the terms of this Participation Agreement shall govern.

5. **Term**. This Participation Agreement is effective through February 27th, 2028 (expiration of the initial term of the Sourcewell Contract). Should the Sourcewell Contract #121923-SHI be extended, this Participation Agreement will also be extended.

6. **Indemnification.** To the extent permitted under applicable law, each party shall defend, indemnify, and hold harmless the other party, its affiliates, and their elected officials, officers, directors, employees, and agents (the "indemnified parties") against and from any and all losses, liabilities, damages, actions, claims, demands, settlements, judgments, and any other expenses (including reasonable attorneys' fees), which are asserted against the indemnified parties by a third party, but only to the extent caused by (i) violation of law in the performance of its obligations under this agreement by the indemnifying party, its affiliates, or the officers, agents or employees of such party (the "indemnifying parties"); or (ii) the negligence or misconduct of the indemnifying parties during the term of this agreement. The indemnities in this section are subject to the indemnified parties promptly notifying the indemnifying parties in writing of any claims or suits. Neither party shall be required to indemnify the other party for that party's own negligence. Notwithstanding any other provision set forth in this

Participation Agreement, nothing contained in this Participation Agreement shall be construed as a waiver of CITY's right to sovereign immunity under Florida law, if applicable, and/or the limits of the CITY's liability under Section 768.28 of the Florida Statutes, or other limitations imposed on CITY's potential liability under state or federal law regardless of whether such claims are based in tort, contract, statute, strict liability, negligence, product liability or otherwise. This section shall survive the termination and/or expiration of this Participation Agreement.

7. **Venue.** The rights and obligations of the parties hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any actions arising under the Contract and this Participation Agreement shall be exclusively in the state courts of competent jurisdiction in and for Polk County, Florida or the U.S. Federal District Court in and for the Middle District of Florida, Tampa Division.

8. **Public records.** To the extent that any agreement between the parties is construed to be a contract for services with a public agency and that it is acting on behalf of CITY as contemplated in Section 119.0701(1) of the Florida Statutes, then CONTRACTOR agrees to:

   1. Keep and maintain public records required by the CITY to perform the service contemplated in this Participation Agreement.

   2. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

   3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Participation Agreement term and following completion of the Participation Agreement if CONTRACTOR does not transfer the records to the CITY.

   4. Upon completion of the Participation Agreement, transfer, at no cost, to the CITY all public records in possession of CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the Participation Agreement, CONTRACTOR shall

meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS PARTICIPATION AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, records@mywinterhaven.com, 451 THIRD STREET NW, WINTER HAVEN, FLORIDA 33881.

If CONTRACTOR does not comply with a public records request, CITY shall enforce the Participation Agreement which may include immediate termination of this Participation Agreement.

9. **Counterparts.** Original signatures transmitted and received via electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such electronic transmission shall constitute the final agreement of the parties and conclusive proof of such agreement. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

(Remainder of page intentionally left blank)

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

SHI International Corp.

By: DocuSigned by: Kristina Mann
EA418E788F09404...

Printed: Kristina Mann

Title: Sr. Manager - Contracts

CITY OF WINTER HAVEN, FLORIDA

By: _____
T. Michael Stavres, City Manager

Attest:

Vanessa Castillo
Vanessa Castillo, City Clerk

Approved as to Form:

6-24-24
Frederick J. Murphy, Jr., City Attorney

v 7-10-2020

DATE: December 2, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Hiep Nguyen, Smart City Officer
C.J. Scott, Chief Financial Officer
Katrina Hill, Director of Public Affairs & Communication
Shawn Dykes, Human Resources Director

SUBJECT: Approval of OpenGov Cartegraph Software Renewal Agreement, Adding Budgeting and Planning Solution (San Francisco, CA)

BACKGROUND

The OpenGov Cartegraph software is a cloud-hosted asset management software that streamlines the work of the Public Works, Water, Parks, Recreation & Culture, and Fire departments through advanced workflow from shared, integrated databases. Modules of the software include Sanitary Sewer, Signals, Stormwater, Transportation (roads), Walkability (sidewalks), Water Distribution, and Parks, Recreation & Culture. The software is utilized by City departments to manage City-owned assets, and to track and streamline work and expenditures. The OpenGov software also includes a public-facing web and mobile app to allow residents to submit and track issues and requests.

The OpenGov software renewal agreement includes the addition of the software platform's Budgeting and Planning solution.

The key feature of OpenGov Budgeting and Planning include:

- User-Friendly Interface: Simplifies budget creation with intuitive tools for all departments.
- Real-Time Collaboration: Allows multiple users to work on budgets simultaneously, improving accuracy and efficiency.
- Advanced Reporting: Provides dashboards and reports for instant analysis and decision-making.
- Scenario Planning: Enables forecasting and "what-if" analyses to prepare for various financial scenarios.
- Public Engagement: Enhances transparency with publicly accessible portals for budget updates and financial data.

The benefits of OpenGov Budgeting and Planning include:

- Increased Efficiency: Reduces manual workload by automating repetitive tasks and data consolidation.
- Improved Transparency: Fosters trust with constituents by providing clear and accessible budget data.
- Enhanced Decision-Making: Supports informed decisions with real-time analytics and performance tracking.
- Long-Term Cost Savings: Decreases reliance on external consultants and minimizes errors that lead to rework

The purchase agreement is a three-year renewal of software subscription and services with the following terms:

- Term 1 (11/1/2024 - 10/31/2025): $213,951.39
- Term 2 (11/1/2025 - 10/31/2026): $237,023.96
- Term 3 (11/1/2026 - 10/31/2027): $248,875.16

The total cost for the three-year software renewal for all terms is $699,850.51.

FINANCIAL IMPACT

The total software subscription cost is $699,850.51 for a three-year renewal. The term for the first year is budgeted in Fiscal Year 2025 in the Internal Services Fund (account 501-04-923-5402).

STRATEGIC PLAN ALIGNMENT

- Pillar: Infrastructure
- Goal: 3.4 – Pursue emerging opportunities to embrace new technology, infrastructure, and enterprise opportunities.
- Strategy: 3.4.2 Ensure an organizational culture that embraces innovation and the adoption of new technology.

- Pillar: Responsible Government
- Goal: 6.1 – Exemplify fiscal accountability and resiliency.
- Strategy: 6.1.1 – Enhance fiscal communication via implementation and distribution (print and electronic) including a Budget Book, Budget-in-Brief, Popular Annual Financial Report (PAFR), Annual Comprehensive Financial Report (ACFR), and monthly budget performance reports.

RECOMMENDATION

Staff recommends the City Commission approve the OpenGov software renewal agreement for $699,850.51 for a three-year term and authorize the City Manager to execute all documents and take all other necessary actions related to purchase approved herein.

ATTACHMENTS

- Three year 2024-2027 OpenGov Cartegraph Renewal
- OpenGov Form Addendum
- Form Purchasing Affidavits

OPENGOV

OpenGov Inc.
660 3rd Street, Suite 100
San Francisco, CA 94107
United States

Order Form Number: OG-00FL2411
Created On: 4/2/2024
Order Form Expiration: 11/30/2024
Subscription Start Date: 11/1/2024
Subscription End Date: 10/31/2027

Prepared By: Marguerite Kuntz
Email: salesops@opengov.com
Contract Term: 36 Months

Customer Information

Customer: City of Winter Haven, FL
Bill To/Ship To: 551 Third Street NW
Winter Haven, Florida 33880
United States

Contact Name: Morgan Wilson
Email: mwilson@mywinterhaven.com

Order Details

Billing Frequency: Annually in Advance
Payment Terms: Net Thirty (30) Days

SOFTWARE SERVICES:

Product / Service	Start Date	End Date	Annual Fee
OMS Plus, OMS User (250), SCF City 30,000-39,999 (includes 30 SCF Users), SCF Marketplace App, Integration Toolkit (option), Scenario Builder (option), Advanced Material Management (option), Asset Builder (option), Facilities Domain, Parks & Recreation Domain, Sanitary Sewer Domain, Signal Domain, Stormwater Domain, Transportation Domain, Walkability Domain, Water Distribution Domain, Cartegraph Engage, Systems Integration Subscription- Trax Fuel System	11/1/2024	10/31/2025	$131,451.39
PRORATED TO ALIGN TO A 11/1/2025 START DATE Budgeting & Planning *Dashboards, Financial Integration, Online Budget Book, Open Town Hall, Operating & Capital Budgeting, Reporting & Analytics, Story Builder, Transparency, Workforce Planning*	12/1/2024	10/31/2025	$82,500.00
OMS Plus, OMS User (250), SCF City 30,000-39,999 (includes 30 SCF Users), SCF Marketplace App, Integration Toolkit (option), Scenario Builder (option), Advanced Material Management (option), Asset Builder (option), Facilities Domain, Parks & Recreation Domain, Sanitary Sewer Domain, Signal Domain, Stormwater Domain, Transportation Domain, Walkability Domain, Water Distribution Domain, Cartegraph Engage, Systems Integration Subscription- Trax Fuel System	11/1/2025	10/31/2026	$138,023.96
Budgeting & Planning *Dashboards, Financial Integration, Online Budget Book, Open Town Hall, Operating & Capital Budgeting, Reporting & Analytics, Story Builder, Transparency, Workforce Planning*	11/1/2025	10/31/2026	$99,000.00
OMS Plus, OMS User (250), SCF City 30,000-39,999 (includes 30 SCF Users), SCF Marketplace App, Integration Toolkit (option), Scenario Builder (option), Advanced Material Management (option), Asset Builder (option), Facilities Domain, Parks & Recreation Domain, Sanitary Sewer Domain, Signal Domain, Stormwater Domain, Transportation Domain, Walkability Domain, Water Distribution Domain, Cartegraph Engage, Systems Integration Subscription- Trax Fuel System	11/1/2026	10/31/2027	$144,925.16
Budgeting & Planning *Dashboards, Financial Integration, Online Budget Book, Open Town Hall, Operating & Capital Budgeting, Reporting & Analytics, Story Builder, Transparency, Workforce Planning*	11/1/2026	10/31/2027	$103,950.00

Annual Subscription Total: See Service Terms

PROFESSIONAL SERVICES:

Product / Service	Description
OpenGov Deployment — One Time Fee (Prepaid Hours)	Product configuration, setup, and training described in the attached SOW.

Professional Services Total: **$65,000.00**

Serivce Terms

Service Date:	Amount:	
November 1, 2024	$131,451.39	*(Annual Software Fee + Professional Services)*
December 1, 2024	$82,500.00	*(PRORATED PERIOD TO ALIGN TO 11/1/2025 START DATE)*
November 1, 2025	$237,023.96	*(Annual Software Fee)*
November 1, 2026	$248,875.16	*(Annual Software Fee)*

Order Form Legal Terms

Fees for the Software Services and Professional Services shall be due and payable, in advance, 30 days from receipt of the invoice.

CITY OF WINTER HAVEN CONTRACT ADDENDUM

This *City of Winter Haven Contract Addendum* ("Addendum") is agreed upon by the parties and appended to the agreement(s), purchase(s), order(s), form(s), service(s), package(s), term(s), and contract(s) identified below by reference by title (together collectively the "Contract" or the "Contract Documents"), between the City of Winter Haven, Florida, a Florida municipal corporation (the "City") and the following Vendor (collectively, the "Parties"):

Name of Vendor: OpenGov Inc.
660 3rd Street, Suite 100
San Francisco, CA 94107

Name of Contract: Cartegraph Solutions Purchase Agreement dated July 1, 2021; Contract Addendum to Purchase Amendment; OpenGov Order Form Number OG-00FL2411

§ 1. Initial Provisions and Fact Findings.

The Parties agree upon the following initial provisions and factual findings:

(a) The City is authorized to enter into the Contract and this Addendum as a matter of home rule under Section 2(b) of Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes. The resulting contract, articulated by the Contract Documents as a whole, is subject to all budgeting and legal requirements of the *Code of Ordinances of the City of Winter Haven, Florida*, the *Charter of the City of Winter Haven, Florida* and the Florida Statutes.

(b) Copies of the Cartegraph Solutions Purchase Agreement dated July 1, 2021, the Contract Addendum to Purchase Amendment, and OpenGov Order Form Number OG-00FL2411 are made a part hereof by reference.

(c) Notwithstanding anything in the Contract, Vendor and the City acknowledge and agree that the Effective Date of the Contract and this Addendum is the date that the governing body of the City approves and enters into the Contract and this Addendum at a duly called open public meeting.

(d) Vendor represents that it is authorized to transact business in the State of Florida.

(e) Vendor and the City acknowledge and represent that certain amendments to the Contract are desirable and necessary in order to comply with applicable Florida law.

(f) Vendor acknowledges and agrees that the Contract and this Addendum are governed by Florida law.

(g) Vendor and the City acknowledge that the City's entry into the Contract, remission of payments, and performance thereunder, is contingent upon the terms and conditions set forth in this Addendum.

(h) Vendor acknowledges and represents that, in consideration for the City's entry into the Contract and this Addendum, and the City's performance thereunder, Vendor has agreed to provide and perform its obligations and services in strict accordance with Florida law, including by way of explanation, but not limitation, Chapters 119, 267, and 668 of the Florida Statutes.

(i) Vendor represents that, prior to executing this Addendum, it has reviewed this Addendum with its legal counsel and fairly negotiated this Addendum at arm's length.

(j) The City acknowledges that the Contract and this Addendum are in the best interest of the City of Winter Haven and its citizens and residents, and execution of the Contract and this Addendum will promote the health, safety and welfare of the citizens and residents of the City of Winter Haven, Florida.

(k) Vendor and the City acknowledge, represent, and agree that mutual consideration has been given, receipt of which is duly acknowledged, in consideration and exchange for entry into this Addendum.

§ 2. Definitions.

Words used in the Contract and Addendum, as well as any and all attachments and exhibits incorporated therein and made a part of the Contract Documents, shall possess their everyday and ordinary meanings, *provided however*, that where one of the following listed terms is used, such term shall possess its corresponding meaning, as follows:

Day(s) means calendar day(s) unless specifically stated otherwise.

Calendar Day(s) means any day(s) in a 365-day calendar year.

Business Day(s) means that (or those) calendar day(s) which is (or are) not a Saturday, a Sunday, or a holiday where the City's City Hall is closed for the transaction of ordinary business (a "City Holiday").

§ 3. Primacy of Addendum.

This Addendum contains specific terms and conditions that are applicable to purchases of goods and services made by the City of Winter Haven, Florida, a Florida municipal corporation. Notwithstanding anything in the Contract Documents to the contrary, whether expressly made or determined to exist by implication, the terms of this Addendum shall be primary and shall control over any conflicting term, condition, duty, and implication found in the Contract Documents.

§ 4. Calculation of Time.

Unless expressly specified otherwise in the Contract Documents, the calculation of any time period expressed in days or the determination of the number of days that have passed between events or occurrences shall be based on calendar days and every calendar day of the period shall be counted including intermediate Saturdays, Sundays and City Holidays. Unless expressly specified otherwise specified in the Contract Documents, any time period expressed in days that is prescribed in or by the Contract Documents shall commence on the day immediately following the event triggering such time period and shall expire at midnight on the last day of the same, provided that if the last day of the period is a Saturday, Sunday, or City Holiday, the period continues to run until the next day that is not a Saturday, Sunday, or City Holiday. Time periods expressed in the Contract Documents that are not contingent upon an action or event shall commence on the day immediately following the Effective Date.

§ 5. Governing Law; Home Venue Privilege.

The Contract and this Addendum are made in the City of Winter Haven, County of Polk, State of Florida, and shall be governed solely by the internal laws of the State of Florida. The Parties agree that venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of, concerns, or relates to the Contract, the Addendum, the Contract Documents, any and all transactions contemplated thereunder, the performance thereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall lie exclusively in courts with geographic jurisdiction over Polk County, Florida, which, as of the Effective Date, are the County Court in and for Polk County, Florida, the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida and the United States District Court for the Middle District of Florida, Tampa Division. The Parties waive any objection to jurisdiction and venue in such courts.

§ 6. Financial Matters; City Performance Subject to Appropriation; Invoices; Applicability of the Florida Local Government Prompt Payment Act

(a) The City's obligation to perform under the Contract Documents and furnish payment to Vendor is expressly subject to appropriation of sufficient public funds by the City Commission of the City of Winter Haven, Florida. The City has appropriated funds for OpenGov Order Form Number OG-00FL2411 through September 30, 2025. In the event the City Commission of the City of Winter Haven, Florida, fails to appropriate sufficient funds to satisfy the City's payment obligations to Vendor of any kind or type, the City or the Vendor may immediately terminate the Contract and this Addendum and be released from any future responsibility or liability thereunder.

(b) Invoices for services shall be sent to: City of Winter Haven – Finance Dept., P.O. Box 2277, Winter Haven, Florida 33883-227, or preferably, emailed to finance-AP@mywinterhaven.com, or at such other address as may be directed by the City to the

Vendor in writing from time to time.

(c) The provisions of the *Local Government Prompt Payment Act*, §§ 218.70, *et seq.*, Florida Statutes (2023), are incorporated herein as if set forth in full, and shall control all payments made by the City to the Vendor required by the Contract Documents. To the extent there is conflict between the text of the Contract Documents and the text of the *Local Government Prompt Payment Act*, the text of the *Local Government Prompt Payment Act* shall control.

§ 7. Public Records Compliance.

Pursuant to Section 119.0701(1)(a) of the Florida Statutes, Vendor agrees to:

(a) Keep and maintain Public Records required by the City to perform the Services specified herein.

(b) Upon request from the City's custodian of Public Records, provide the City with a copy of the requested Public Records or allow the Public Records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term and following completion of the contracted work or service if Vendor does not transfer the Public Records to the City.

(d) Upon completion of the contracted work or service, transfer, at no cost, to the City all Public Records in possession of Vendor or keep and maintain Public Records required by the City to perform the service. If Vendor transfers all Public Records to the City upon completion of the contracted work or service, Vendor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If Vendor keeps and maintains Public Records upon completion of the contracted work or service, Vendor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the City upon request from the City's custodian of Public Records, in a format that is compatible with the City's information technology systems.

IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, RECORDS@MYWINTERHAVEN.COM, 451 THIRD STREET NW, WINTER

HAVEN, FL 33881.

If Vendor does not comply with a public records request, the City shall enforce this contract provision, which may include immediate termination.

§ 8. Sovereign Immunity; Limitations of City's Liability.

(a) City is a sovereign Florida municipal government. The Parties agree that nothing contained in the Contract Documents shall be construed to waive the City's sovereign immunity. With respect to the matter of compensation for work performed, or the price of goods sold, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the agreed-upon price established in the Contract Documents, or any related purchase order, subject to annual appropriation performance contingencies. For all other matters, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligations are based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. The Parties also agree that the City shall not be liable to the Vendor for any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment.

(b) The Parties agree that the maximum value and monetary limits of any individual express City indemnification and all collective express City indemnifications found in the Contract Documents, if any exist, shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligation to indemnify or the underlying cause for indemnity is based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. Notwithstanding anything in the Contract Documents to the contrary, to the extent that the City has agreed to an express indemnification, the Parties agree that no City indemnity shall require the City to defend Vendor and no City indemnity shall indemnify Vendor from and against attorneys' fees and costs, fees and costs for experts and witnesses, costs of suit, or any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment. This limitation provision shall not be construed to create a duty for the City to indemnify the Vendor in the absence of an independent express indemnification clause.

(c) This Section shall survive termination of the Contract and this Addendum.

§ 9. Required Clauses.

Pursuant to Florida Statutes, the following provisions are added to the Contract Documents:

(a) *Convicted Vendor List.* A person or affiliate who has been placed on the

State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity, in excess of $35,000.00, for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List. Vendor acknowledges that it is not on the State of Florida Convicted Vendor List and that it is eligible to enter into the Contract, this Addendum, the Contract Documents, and the resulting contract with the City.

(b) *Scrutinized Companies.* Section 287.135, Florida Statutes, prohibits the City from contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel; and contracting with companies for goods or services over $1,000,000.00 that are on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, or are engaged in business operations in Cuba or Syria. Vendor acknowledges that it is not on the State of Florida Scrutinized Companies that Boycott Israel list, is not presently engaged in a boycott of Israel, is not on the State of Florida Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, and is not engaged in business operations in Cuba or Syria.

(c) *E-Verify.* By contracting with the City, the Vendor becomes obligated under Florida law to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the Vendor and any subcontractor hired by the Vendor. If the Vendor enters into a contract with a subcontractor, the subcontractor must provide the Vendor with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of the Contract, this Addendum, the Contract Documents, and all purchase orders if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. If this Agreement is terminated for a violation of the statute by the Vendor, the Vendor may not be awarded a public contract for a period of one (1) year after the date of termination.

(d) *No Consideration of Social, Political, and Ideological Interests.* The provisions of Section 287.05701 of the Florida Statutes prohibit local governments from giving preference to a prospective contractor based on the prospective contractor's social, political or ideological interests or requesting documentation from, or considering, a prospective contractor's social, political, or ideological interests when determining if the prospective contractor is a responsible vendor.

(e) *Contracting with Foreign Entities.* By executing this Contract, Vendor

certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, Vendor certifies that no government of a Foreign Country of Concern has a "controlling interest" in Vendor as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the Vendor organized under the laws of a Foreign Country of Concern, nor does the Vendor have its principal place of business located in a Foreign Country of Concern. If this Contract permits the Vendor to access the personal identifying information of any individual, Vendor agrees to notify the City in advance of any contemplated transaction that would cause Vendor to be disqualified from such access under Section 287.138 of the Florida Statutes. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

(f) *No Coercion for Labor or Services.* By executing this Contract, Vendor certifies, pursuant to Section 787.06(13), Florida Statutes under penalty of perjury, that it does not obtain labor or services by the use of coercion, by using or threatening to use physical force against any person; by restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; by using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; by destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; by causing or threatening to cause financial harm to any person; by enticing or luring any person by fraud or deceit; or by providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03, Florida Statutes, to any person for the purpose of exploitation of that person. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

§ 10. <u>Force Majeure.</u>

Delays in performance due to fire; flood; hurricane; tornado; earthquake; windstorm; unavailability of materials or equipment; war; declaration of hostilities; terrorist act; civil strife; strike; labor dispute; epidemic; or act of God, shall be deemed events of "Force Majeure" and such delays shall be excused in the manner herein provided. If a Party is delayed in any work or performance pursuant to the Agreement due to the occurrence of an event of Force Majeure, the date for action required or contemplated by the Agreement shall be extended by the number of days equal to the number of days such party is delayed. The party seeking to be excused based on an event of Force Majeure shall give written notice of the delay indicating its anticipated duration. Each party

shall use its best efforts to rectify any conditions causing the delay and will cooperate with the other party, except for the incurrence of unreasonable additional costs and expenses, to overcome any loss of time that has resulted.

§ 11. Notices.

All notices under the Contract, this Addendum, and the Contract Documents shall be in writing and may be given by any of the following methods: (1) personal delivery, (2) certified mail, postage prepaid, or (3) overnight delivery service, prepaid, when sent to the following:

THE CITY:

T. Michael Stavres, City Manager
City of Winter Haven, Florida
Physical Address: 451 Third Street NW, Winter Haven, Florida 33831

WITH COPY TO: (*which **shall not** constitute notice*)

Frederick J. Murphy, Jr., City Attorney
Boswell & Dunlap, LLP
Post Office Drawer 30, Bartow, Florida 33831
Physical Address: 245 South Central Avenue, Bartow, Florida 33830

VENDOR:

Vendor's address for notices is specified above on Page 1.

For purposes of the Contract, this Addendum, and the Contract Documents, notice shall be deemed to have been received when either deposited in a United States Postal Service mailbox or personally delivered with signed proof of delivery, whichever is later in time.

§ 12. Compliance with Laws.

Vendor agrees to comply with any and all applicable statutes, laws, rules, regulations, charter provisions, ordinances and resolutions of general applicability of the United States of America, of the State of Florida, of Polk County, of City of Winter Haven, and of any and all other public authority which may be applicable.

§ 13. Assignment by Vendor.

The Contract shall hereby be assigned to OpenGov, Inc. and the City expressly consents to such assignment.

The contract expressed by the Contract, this Addendum, and the Contract

Documents shall not be assigned by the Vendor, or any successor thereto, in whole or in part without the prior written consent of the City, which shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties have set their hands hereto on the date indicated:

[*Signatures Follow on Pages 10 and 11*]

City of Winter Haven Contract Addendum
to:
Cartegraph Solutions Purchase Agreement dated July 1, 2021, Contract Addendum to Purchase Amendment, and OpenGov Order Form Number 00FL2411

Signature Page for Vendor

Vendor:

Executed this ____ day of _____, 2024

By: _____

Name:_____

Title: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me, by means of □ physical presence or □ online notarization, this _____ day of _____, 2024, by _____, as __ _____, on its behalf, who is personally known to me or who has produced _____ as identification.

_____
Notary Public, State of _____
Printed Name:_____
My commission expires:_____

City of Winter Haven Contract Addendum
to:
Cartegraph Solutions Purchase Agreement dated July 1, 2021, Contract Addendum to Purchase Amendment, and OpenGov Order Form Number 00FL2411

City of Winter Haven, Florida:

Executed this ____ day of _____, 2024

By: _____
City Manager

Attest:

_____
City Clerk

Approved as to Form and Legal Sufficiency:

_____
City Attorney

Affidavit Regarding the Use of Coercion for Labor and Services

Name of Vendor: OpenGov, Inc.

Address: 660 3rd Street, Suite 100, San Francisco, CA 94107

Phone Number: (650) 336-7167

Authorized Representative's Name: Elise En-En Cole

Authorized Representative's Title: Chief Legal Officer

Effective July 1, 2024, Section 787.06(13), Florida Statutes, requires all nongovernmental entities executing, renewing, or extending a contract with a governmental entity to provide an affidavit signed by an officer or representative under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services.

As the person authorized to sign on behalf of the vendor, I certify that the vendor identified above does not:

- Use or threaten to use physical force against any person;
- Restrain, isolate, or confine or threaten to restrain, isolate, or confine any person without lawful authority and against her or his will;
- Use lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
- Destroy, conceal, remove, confiscate, withhold, or possess any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
- Cause or threaten to cause financial harm to any person;
- Entice or lure any person by fraud or deceit; or
- Provide a controlled substance as outlined in Schedule I or Schedule II of Florida Statute 893.03 to any person for the purpose of exploitation of that person.

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

Elise En-En Cole

The foregoing instrument was acknowledged before me this 27 day of Nov., 2024, by ELISE EN-EN COLE, as Chief Legal Officer of Opengov, Inc., a Corporation, on behalf of the said Corporation who is (___) personally known to me or (X) produced a CA driver's license as identification.

Jennifer Frazier
Notary Public, State of Texas
Comm. Expires 03-16-2026
Notary ID 131492357

Notarized Online with NotaryLive.com

Notary Public, State of Texas
Commission no.: 131492357
My commission expires: 03/16/2026

Affidavit Regarding Foreign Countries of Concern

Name of Vendor: OpenGov, Inc.

Address: 660 3rd Street, Suite 100, San Francisco, CA 94107

Phone Number: 650) 336-7167

Authorized Representative's Name: Elise En-En Cole

Authorized Representative's Title: Chief Legal Officer

Effective January 1, 2024, Section 287.138, Florida Statutes, prohibits a Florida governmental entity from entering into a contract that may grant or allow access to any individual's personal identifying information unless the contracting entity furnishes an affidavit signed by an officer or representative under penalty of perjury concerning foreign countries of concern.

As the person authorized to sign on behalf of the vendor, I certify that:

- The vendor is not owned by the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, or by any agency of or any other entity of significant control of any of such foreign country of concern.
- The government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic does not have a controlling interest in the vendor.
- The vendor is not organized under the laws of and does not have its principal place of business in the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic.

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

The foregoing instrument was acknowledged before me this 27 day of Nov, 2024, by ELISE EN-EN COLE, as Chief Legal Officer of Opengov, Inc., a Corporation, on behalf of the said Corporation who is (___) personally known to me or (X) produced a CA driver's license as identification.

Jennifer Frazier
Notary Public, State of Texas
Comm. Expires 03-16-2026
Notary ID 131492357

Notarized Online with NotaryLive.com

Notary Public, State of Texas
Commission no.: 131492357
My commission expires: 03/16/2026

Notarized by: Jennifer Frazier
Time: 2024-11-27 22:51:40 UTC
URL: https://notarylive.com/tu/cdp/HPSB4T
Access ID: HPSB4T
Pin: ZHSJJH

DATE: November 27, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Brittany Hart, Public Works Director

SUBJECT: Purchase of Public Works Equipment - Streets

BACKGROUND

Staff within the Streets Division has identified the need to replace two critical pieces of equipment that are essential for maintaining City infrastructure and supporting operational efficiency.

The first recommendation is to replace the 1999 Case 621C Pay Loader, Equipment #5132. This loader has been a cornerstone of the division's roadway maintenance, construction, and emergency response efforts. Although originally scheduled for replacement in 2012, it has remained in service for an additional 13 years due to routine maintenance. However, at 25 years old, it is no longer cost-effective to maintain and cannot meet current operational demands. Fleet Maintenance has thoroughly evaluated the equipment and recommended its replacement. Staff proposes acquiring the Volvo L90H2 Wheel Loader to meet this need. Selected for its high performance and versatility, this loader is well-suited for the division's evolving requirements and is compatible with a range of attachments, ensuring adaptability for future tasks. The Volvo L90H2 will be procured through Alta Construction Equipment, Florida, an authorized Volvo Equipment Dealer, under Sourcewell Contract 011723.

The second recommendation involves replacing the 1997 Ford-800 Bucket Truck, Equipment #9122. Scheduled for replacement in 2018, this vehicle has exceeded its intended service life and no longer meets the operational demands of the City's growing urban forestry needs. The truck has become increasingly costly to maintain, and Fleet Maintenance recommends its replacement. Staff proposes replacing it with the Altec LR860 Boom Truck, a vehicle specifically designed for comprehensive tree care. This modern equipment features an insulated bucket and boom with a working height of 75.3 feet, providing city staff with safe and reliable access to the City's extensive tree canopy, which includes over 14,000 trees. The Altec LR860 will be acquired from Altec Industries under Sourcewell Contract 110421-ALT.

FINANCIAL IMPACT

The cost of the Volvo L90H2 Wheel Loader is $258,506.00. There is $142,849.64 in the Capital Depletion Replacement Fund (302-80-420-6421) to replace #5132. Staff budgeted the remaining $115,656.26 within the Streets Operating budget (001-09-401-6402), to close the funding gap.

The cost of Altec LR860 Boom Truck is $223,262.00. There is $213,937.87 in the Capital Depletion Replacement Fund (302-80-420-6421) to replace #9122. Staff budgeted the remaining $9,324.13 within the Streets Operating Budget (001-09-401-6402), to close the funding gap.

STRATEGIC PLAN ALIGNMENT

- This is a routine item associated with normal operations of the City not specifically defined as a goal or strategy within the Strategic Plan. However, it is aligned with the Environmental Stewardship and Responsible Government Pillars.

RECOMMENDATION

Staff recommends that the City Commission approve the purchase of the Volvo L90H2 Wheel Loader and the Altec LR860 Boom Truck, authorize the City Manager to execute the Sourcewell Participation Agreements with Volvo Construction Equipment and Altec Industries, and issue purchase orders as follows: $258,506.00 to Alta Construction Equipment for the Volvo L90H2 Wheel Loader and $223,262.00 to Altec Industries for the Altec LR860 Boom Truck.

ATTACHMENTS

- Sourcewell Participation Agreement – Volvo Construction Equipment
- Sourcewell Participation Agreement – Altec Industries
- Alta Construction Equipment Quote - Volvo L90H2 Wheel Loader
- Altec Industries Quote - Altec LR860 Boom Truck

PARTICIPATION AGREEMENT

THIS PARTICIPATION AGREEMENT is made as of the 29nd th day of October in the year 2024, between **THE CITY OF WINTER HAVEN, FLORIDA,** a Florida Municipal Corporation, whose address is 451 Third Street NW, Post Office Box 2277, Winter Haven, Florida 33883-2277 (hereinafter referred to as the "CITY"), and Volvo Construction Equipment North America, LLC 312 Volvo Way, Shippensburg, PA 17257, (hereinafter referred to as the "CONTRACTOR").

WITNESSETH:

WHEREAS, Sourcewell is a local government unit, public corporation and public agency under the laws of the state of Minnesota.

WHEREAS, Sourcewell, formerly National Joint Powers Alliance, was created by Minnesota state law as a service cooperative to provide programs and services to members in education and government.

WHEREAS, the CITY is a member of Sourcewell under member ID #176873 and is eligible to participate in all Sourcewell awarded contracts.

WHEREAS, use of cooperative purchasing agreements can provide additional benefits to the CITY such as expedited procurement and cost savings resulting from larger contract awards than the CITY would be able to achieve on its own;

WHEREAS, the CITY Procurement Manager has reviewed the Sourcewell solicitation and award process documentation and has found the Sourcewell process to be in compliance with CITY policy and sound Public Procurement Best Practices.

WHEREAS, on November 15, 2022, Sourcewell awarded a Request for Proposal (RFP) #011723 for Heavy Construction Equipment with Related Attachments and Technology.

WHEREAS, Sourcewell fully evaluated and ranked all proposals received in response to RFP #011723;

WHEREAS, on May 3, 2023, Sourcewell and CONTRACTOR entered into a Contract as a result of RFP #011723;

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

1. **Recitals.** The above recitals are true and correct and are incorporated herein.

2. **Commodities.** CONTRACTOR hereby agrees to provide the CITY with Heavy Construction Equipment with Related Attachments and Technology under the Sourcewell Contract. Nothing herein shall limit the CITY'S right to obtain proposals or services from other contractors for same or similar work. CONTRACTOR may also provide to the CITY additional related commodities that may not be on schedule/contract and considered to be Open Market commodities. The cost of Open Market commodities may be negotiated between the parties, subject to compliance with applicable Procurement requirements, if any.

   During the term of this Participation Agreement, any negotiated price, terms or discounts may not be less favorable to the CITY than the price, terms or discounts approved by Sourcewell or any other participating government agency.

3. **Agreement.** This Participation Agreement and the Sourcewell Contract #011723-VCE ("Contract") set forth the entire agreement between the parties.

4. **Terms and Conditions.** The terms and conditions of the Contract between CONTRACTOR and Sourcewell entered into on May 3, 2023, are hereby expressly incorporated by reference into and made a part of this Participation Agreement. In the event of a conflict between the terms and conditions of the Contract and this Participation Agreement, the terms of this Participation Agreement shall govern.

5. **Term**. This Participation Agreement is effective through April 14, 2027 (expiration of the initial term of the Sourcewell Contract). Should the Sourcewell Contract #011723-VCE be extended, this Participation Agreement will also be extended.

6. **Indemnification.** To the extent permitted under applicable law, each party shall defend, indemnify, and hold harmless the other party, its affiliates, and their elected officials, officers, directors, employees, and agents (the "indemnified parties") against and from any and all losses, liabilities, damages, actions, claims, demands, settlements, judgments, and any other expenses (including reasonable attorneys' fees), which are asserted against the indemnified parties by a third party, but only to the extent caused by (i) violation of law in the performance of its obligations under this agreement by the indemnifying party, its affiliates, or the officers, agents or employees of such party (the "indemnifying parties"); or (ii) the negligence or misconduct of the indemnifying parties during the term of this agreement. The indemnities in this section are subject to the indemnified parties promptly notifying the indemnifying parties in writing of any claims or suits. Neither party shall be required to indemnify the other party for that party's

own negligence. Notwithstanding any other provision set forth in this Participation Agreement, nothing contained in this Participation Agreement shall be construed as a waiver of CITY's right to sovereign immunity under Florida law, if applicable, and/or the limits of the CITY's liability under Section 768.28 of the Florida Statutes, or other limitations imposed on CITY's potential liability under state or federal law regardless of whether such claims are based in tort, contract, statute, strict liability, negligence, product liability or otherwise. This section shall survive the termination and/or expiration of this Participation Agreement.

7. **Venue.** The rights and obligations of the parties hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any actions arising under the Contract and this Participation Agreement shall be exclusively in the state courts of competent jurisdiction in and for Polk County, Florida or the U.S. Federal District Court in and for the Middle District of Florida, Tampa Division.

8. **Public records.** To the extent that any agreement between the parties is construed to be a contract for services with a public agency and that it is acting on behalf of CITY as contemplated in Section 119.0701(1) of the Florida Statutes, then CONTRACTOR agrees to:

   1. Keep and maintain public records required by the CITY to perform the service contemplated in this Participation Agreement.

   2. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

   3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Participation Agreement term and following completion of the Participation Agreement if CONTRACTOR does not transfer the records to the CITY.

   4. Upon completion of the Participation Agreement, transfer, at no cost, to the CITY all public records in possession of CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon

completion of the Participation Agreement, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS PARTICIPATION AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, records@mywinterhaven.com, 451 THIRD STREET NW, WINTER HAVEN, FLORIDA 33881.

If CONTRACTOR does not comply with a public records request, CITY shall enforce the Participation Agreement which may include immediate termination of this Participation Agreement.

9. **Counterparts.** Original signatures transmitted and received via electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such electronic transmission shall constitute the final agreement of the parties and conclusive proof of such agreement. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have executed this Participation Agreement . the date stated in the preambleon

Alta Equipment Company

By: _____

Printed: Kevin T. Gray

Title: Governmental Sales Manager

Volvo Construction Equipment North America LLC

By: Stephanie McCall

Printed: Stephanie McCall

Title: Vice President, Strategic Accounts

CITY OF WINTER HAVEN, FLORIDA

By: _____
T. Michael Stavres, City Manager

Attest:

_____
Vanessa Castillo, City Clerk

Approved as to Form:

_____
Frederick J. Murphy, Jr., City Attorney

PARTICIPATION AGREEMENT

THIS PARTICIPATION AGREEMENT is made as of the 31st day of October in the year 2024, between **THE CITY OF WINTER HAVEN, FLORIDA,** a Florida Municipal Corporation, whose address is 451 Third Street NW, Post Office Box 2277, Winter Haven, Florida 33883-2277 (hereinafter referred to as the "CITY"), and Altec Industries, INC address 210 Inverness Center Drive Birmingham, AL 35242-4834, (hereinafter referred to as the "CONTRACTOR").

WITNESSETH:

WHEREAS, Sourcewell is a local government unit, public corporation and public agency under the laws of the state of Minnesota.

WHEREAS, Sourcewell, formerly National Joint Powers Alliance, was created by Minnesota state law as a service cooperative to provide programs and services to members in education and government.

WHEREAS, the CITY is a member of Sourcewell under member ID #176873 and is eligible to participate in all Sourcewell awarded contracts.

WHEREAS, use of cooperative purchasing agreements can provide additional benefits to the CITY such as expedited procurement and cost savings resulting from larger contract awards than the CITY would be able to achieve on its own;

WHEREAS, the CITY Procurement Manager has reviewed the Sourcewell solicitation and award process documentation and has found the Sourcewell process to be in compliance with CITY policy and sound Public Procurement Best Practices.

WHEREAS, on September 16, 2021, Sourcewell awarded a Request for Proposal (RFP) #110421 for Public Utility Equipment with Related Accessories and Supplies.

WHEREAS, Sourcewell fully evaluated and ranked all proposals received in response to RFP #110421;

WHEREAS, on January 12, 2022, Sourcewell and CONTRACTOR entered into a Contract as a result of RFP #110421;

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

1. **Recitals.** The above recitals are true and correct and are incorporated herein.

2. **Commodities.** CONTRACTOR hereby agrees to provide the CITY with Public Utility Equipment with Related Accessories and Supplies. under the Sourcewell Contract. Nothing herein shall limit the CITY'S right to obtain proposals or services from other contractors for same or similar work. CONTRACTOR may also provide to the CITY additional related commodities that may not be on schedule/contract and considered to be Open Market commodities. The cost of Open Market commodities may be negotiated between the parties, subject to compliance with applicable Procurement requirements, if any.

   During the term of this Participation Agreement, any negotiated price, terms or discounts may not be less favorable to the CITY than the price, terms or discounts approved by Sourcewell or any other participating government agency.

3. **Agreement.** This Participation Agreement and the Sourcewell Contract #110421-ALT ("Contract") set forth the entire agreement between the parties.

4. **Terms and Conditions.** The terms and conditions of the Contract between CONTRACTOR and Sourcewell entered into on January 12, 2022, are hereby expressly incorporated by reference into and made a part of this Participation Agreement. In the event of a conflict between the terms and conditions of the Contract and this Participation Agreement, the terms of this Participation Agreement shall govern.

5. **Term**. This Participation Agreement is effective through December 27, 2025 (expiration of the initial term of the Sourcewell Contract). Should the Sourcewell Contract #110421-ALT be extended, this Participation Agreement will also be extended.

6. **Indemnification.** To the extent permitted under applicable law, each party shall defend, indemnify, and hold harmless the other party, its affiliates, and their elected officials, officers, directors, employees, and agents (the "indemnified parties") against and from any and all losses, liabilities, damages, actions, claims, demands, settlements, judgments, and any other expenses (including reasonable attorneys' fees), which are asserted against the indemnified parties by a third party, but only to the extent caused by (i) violation of law in the performance of its obligations under this agreement by the indemnifying party, its affiliates, or the officers, agents or employees of such party (the "indemnifying parties"); or (ii) the negligence or misconduct of the indemnifying parties during the term of this agreement. The indemnities in this section are subject to the indemnified parties promptly notifying the indemnifying parties in writing of any claims or suits. Neither party shall be required to indemnify the other party for that party's own negligence. Notwithstanding any other provision set forth in this

Participation Agreement, nothing contained in this Participation Agreement shall be construed as a waiver of CITY's right to sovereign immunity under Florida law, if applicable, and/or the limits of the CITY's liability under Section 768.28 of the Florida Statutes, or other limitations imposed on CITY's potential liability under state or federal law regardless of whether such claims are based in tort, contract, statute, strict liability, negligence, product liability or otherwise. This section shall survive the termination and/or expiration of this Participation Agreement.

7. **Venue.** The rights and obligations of the parties hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any actions arising under the Contract and this Participation Agreement shall be exclusively in the state courts of competent jurisdiction in and for Polk County, Florida or the U.S. Federal District Court in and for the Middle District of Florida, Tampa Division.

8. **Public records.** To the extent that any agreement between the parties is construed to be a contract for services with a public agency and that it is acting on behalf of CITY as contemplated in Section 119.0701(1) of the Florida Statutes, then CONTRACTOR agrees to:

   1. Keep and maintain public records required by the CITY to perform the service contemplated in this Participation Agreement.

   2. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

   3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Participation Agreement term and following completion of the Participation Agreement if CONTRACTOR does not transfer the records to the CITY.

   4. Upon completion of the Participation Agreement, transfer, at no cost, to the CITY all public records in possession of CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the Participation Agreement, CONTRACTOR shall

meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS PARTICIPATION AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, records@mywinterhaven.com, 451 THIRD STREET NW, WINTER HAVEN, FLORIDA 33881.

If CONTRACTOR does not comply with a public records request, CITY shall enforce the Participation Agreement which may include immediate termination of this Participation Agreement.

9. **Counterparts.** Original signatures transmitted and received via electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such electronic transmission shall constitute the final agreement of the parties and conclusive proof of such agreement. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

(Remainder of page intentionally left blank)

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

Altec Industries, INC.

By: 

Printed: Brooklyn Russell

Title: Contract Specialist

CITY OF WINTER HAVEN, FLORIDA

By: _____
T. Michael Stavres, City Manager

Attest:

_____
Vanessa Castillo, City Clerk

Approved as to Form:

_____
Frederick J. Murphy, Jr., City Attorney

Quote Valid for 90 days

V23

Contract: 011723-VCE

Date: 10.30.24

Buying Agency:	City of Winter Haven	Dealership:	Alta Construction Equipment Florida
SW Member #:	176873	Prepared By:	Kevin Gray
Contact Person:	Josh Crosby	Phone:	813-391-8159
Phone/Email:	863-256-4210/jcrosby@mywinterhaven.com	Email:	kevin.gray@altg.com
Sourcewell Product Code			

A. Catalog / Price Sheet Items being purchased

Quan		Unit Pr	Total
1	Volvo L90H2 Wheel Loader	$246,231	$246,231
	See next page for machine specs at List Price, Contract Discount, Machine Price		
	TOTAL Purchse Price at Bottom of this Page		
		Sourcewell Machine Price:	$246,231
		Additional Discount:	-$12,500
		Subtotal A:	$233,731

B. Sourced Contracted Items

Quan	Description	Unit Pr	Total
1	Pemberton 106" Loader Rake with Full Width Hydraulic Paddle	$23,175	$23,175
1			$0
1			$0
1			$0
1			$0
1			$0
1			$0
1			$0
		Subtotal B:	$23,175

C. Freight / Installation / Ext Warranty / Trade-Ins / Other Allowances/ Miscellaneous Charges

Freight	$600
PDI	$1,000
Subtotal C:	$1,600

Delivery Date:	1/15/2025	D. TOTAL PURCHASE PRICE (A+B+C):	$258,506

Description	Part #	List Price
Volvo L90H2 GPE Wheel Loader	**L90H2**	**$318,437**
20.5R25* Bridgestone VJT	WL20011	$20,904
4-Rims (3pc) for 20.5 or 600 tires	WL21004	$5,037
Engine D6J (Tier 4F) US	WL32017	$0
Max. fan speed, hot climate	WL30002	$203
Fuel fill strainer	WL30007	$0
Delayed Engine Shutdown	WL30024	$228
Air precleaner, turbo type III	WL31005	$1,612
Limited slip rear axle	WL35001	$6,496
Reversible cooling fan	WL37001	$1,517
Rimpull	WL39501	$0
Volvo Airsusp, Heated, 2pt, 3" belt	WL41010	$2,504
Air conditioning with ACC (automatic climate control)	WL42001	$8,049
Radio BlueTooth/USB/AUX no CD	WL43004	$1,218
RH Radio mounting kit including 2 speakers & 12v outlet	WL44001	$1,282
Steering knob	WL45001	$0
Sliding window in door	WL45003	$0
ACC Fahrenheit decal only	WL45004	$0
Universal key	WL45005	$0
Sun blinds rear window	WL45007	$470
Left hand armrest for Volvo seats	WL45018	$258
Secondary steering, electric	WL45019	$0
Lunch box holder	WL45023	$0
Anchorage manual	WL45027	$0
Volvo Co-Pilot Including Rear View Camera	WL45065	$0
Single lever control for 3rd hyd. function (hydraulics & detent function are included)	WL47002	$6,201
LED Feature Package	WL50023	$4,806
Warning Beacon, LED	WL51003	$1,042
Jump start connector, ISO-Type	WL53010	$914
Separate attachment locking, std. boom	WL64001	$3,965
Operator Coaching Start	WL88201	$0
Back up alarm	WL54001	$0
Max Boom Height	WL65013	$0
Oil sampling ports	WL71002	$369
Footsteps front frame	WL71005	$360
Footstep, right side	WL71009	$0
Boom Suspension System ("Ride Control")	WL80001	$8,676
Tow Hitch	WL82005	$557
Counterweight, logging	WL81001	$2,189
Decals, English/Spanish	WL83004	$0
Cover plates, rear frame	WL86013	$0
Frame, life time warranty	WL86041	$0
CareTrack Connectivity 4 yr Subscription	WL88010	$0
CareTrack, GSM/Satellite	WL88018	$0

De-activate SAT	WL88020	$0
Attachment bracket	WLA85346	$8,323
108" 3.5 yd hook-on GP bucket	WLA86331	$15,828
108" 3-piece bolt-on edge kit, straight-edge bucket	WLA80679	$1,993
87" Fork frame - standard	WLA83771	$7,726
72" straight fork tine, 6" X 2.4"	WLA83013	$2,708
72" straight fork tine, 6" X 2.4"	WLA83013	$2,708
	Total List Price	**$436,580**
	Sourcewell % off List	43.6%
	Sourcewell Machine Price	**$246,231**

See Front Page of Quote for Total Purchase Price

September 16, 2024
Our 95th Year

Ship To:
CITY OF WINTER HAVEN (FL)
500 7TH ST SW
WINTER HAVEN, FL 33880
US

Bill To:
CITY OF WINTER HAVEN (FL)
500 7TH ST SW
WINTER HAVEN, FL 33880
United States

Attn:
Phone:
Email:

Altec Quotation Number: 1335910 - 1
Account Manager: Alec Deker
Technical Sales Rep: Abbott Tobin Gaddy

Item	Description	Qty	Price
	Unit		
1.	ALTEC Model LR8-60E70 Articulating Overcenter Aerial Device with an insulating lower boom, insulating upper boom and the Altec ISO-Grip insulating system at the boom tip. For installation behind the cab to include the following features:	1	

A. Ground to Bottom of Platform Height: 70.3 feet (21.4 meters).
B. Working Height: 75.3 feet (23.0 meters).
C. Maximum reach to edge of platform with Upper Boom Non- overcenter (working position): 44.8 feet (13.6 meters) at platform height of 38.7 feet (11.8 meters)
D. Maximum reach to edge of platform with Upper Boom Overcenter: 48.4 feet (14.8 meters) at platform height of 19.8 feet (6.0 meters).
E. Continuous Rotation.
F. Lower Boom: Articulation is from 0 to 125 degrees. Insulator provides 15 inches of isolation in the lower boom.
G. Insulating Upper Boom: Articulation is from 0 to 270 degrees. The round filament wound fiberglass section provides a minimum of 19 feet (5.79 meters) of isolation.
H. Chain and Rod Leveling: Platform automatically maintains level during boom articulation by means of a high strength chain and fiberglass rods in the booms to maintain dielectric integrity. Lifetime system requires no major preventative maintenance. Platform level adjustment is easily accessible from external location on lower pivot.
I. Altec Patented walking link system features uniform speed, smooth and continuous articulation and low maintenance operation.
J. Maintenance Free Elbow: nitrided to prevent rust, increase hardness and eliminates the need for grease at the elbow.
K. Side-by-Side Boom Stow offers low travel height and easy platform access.
L. The INSULATING UPPER CONTROL SYSTEM includes a single handle controller incorporating high electrical resistance components that are dielectrically tested to 40 kV AC with no more than 400 microamperes of leakage. The control handle is green in color to differentiate it from other non-tested controllers.
M. The INSULATING SECONDARY CONTROL SYSTEM includes control handles incorporating high electrical resistance components that are dielectrically tested to 40 kV AC with no more than 400 microamperes of leakage. These control

Item	Description	Qty	Price
	handles are green in color to differentiate it from other non-tested controllers.		
	N. Platform capacity: 400 lbs. (181 kilograms) standard.		
	O. Small Boom Tip Profile.		
	P. Hydraulic system: Open center (full pressure), maximum flow of 6.0 to 6.5 gpm (22.7 to 24.6 lpm), maximum operating pressure of 3,000 psi.		
	Q. Diagnostic pressure test port is located at the lower control station to allow a technician to quickly and easily attach a test gauge to verify system and tool circuit pressure.		
	R. Unit is painted with a powder coat paint process which provides a finish-painted surface that is highly resistant to chipping, scratching, abrasion and corrosion. Paint is electrostatically applied to the inside as well as outside of fabricated parts then high temperature cured prior to assembly ensuring maximum coverage and protection.		
	S. Unit meets or exceeds ANSI 92.2 standards.		
2.	Manual Upper Boom Stow Securing System with support cradle and tie down strap.	1	
3.	Elevator Pedestal	1	
4.	Single, One (1) Man, Fiberglass Platform; fixed side mounted. 24 x 24 x 39 inches. Altec Patented ISO-Grip Insulating, Proportional Speed, Upper Control Handle - with safety interlock and interlock guard. Located on the side of the platform nearest the upper boom, mounted on the shaft. Forward/back operates lower boom down/up, tiller operates rotation CW/CCW, and up/down operates upper boom up/down.	1	
5.	One (1) Platform Step - located on the side of the platform nearest the elbow in the stowed position	1	
6.	Platform Cover - Soft vinyl 24 x 24 inch (610 x 610 mm)	1	
7.	Platform Liner, 24 x 24 x 39 inches (610 x 610 x 991 mm), 50 kV Rating	1	
8.	Hydraulic Tool Circuit at Platform: Two (2) sets of tool couplers for open center tools, one (1) set located on each side of the platform.	1	
9.	Tool Circuit System Relief Pressure to be set to 2250 PSI	1	
10.	Secondary Stowage System: 12 VDC powered motor and pump assembly for temporary operation of the unit in a situation wherein the primary hydraulic source fails. Electric motor is powered by the chassis battery. Control is operated with an air plunger at the platform and a momentary switch located at the lower controls and the outrigger controls. This feature allows the operator to completely stow the booms, platform, and outriggers.	1	
11.	Slip Ring: Required for engine start/stop, secondary stowage system, and throttle control options	1	
12.	Primary A-Frame Outriggers with 5-degree swivel shoe. For installation on a 36 to 40 inch chassis frame height. **A.** Maximum Spread: 140 inches **B.** Ground Penetration: 7 to 11 inches depending on chassis frame height **C.** Outrigger/Unit Selector Valve: reduces the potential for inadvertent outrigger movement during machine operation if outrigger controls are bumped **D.** Outrigger Control Valves: located on the outrigger legs	1	

Item	Description	Qty	Price
	E. Outrigger Interlocks: will not allow the unit to be operated until the outriggers have been at least partially deployed **F.** Outrigger Motion Alarms		
13.	Hydraulic Outrigger Control Valves	1	
14.	Insulating Aerial Device, ANSI Category C, 46kV and Below	1	
15.	Bolt On Grab Handle for Turntable	1	
16.	Altec Unit Powder Painted White	1	
	Unit & Hydraulic Acc.		
17.	Hydraulic Reservoir, 30 Gallon, Rectangular	1	
18.	Sight Gauge for Hydraulic Reservoir, Reservoir Mounted	1	
19.	Hydraulic Oil HVI-22 with Dye (Standard)	35	
20.	Standard Pump For PTO	1	
21.	Hot shift PTO for automatic transmission	1	
22.	Standard Altec PTO/Machine Functionality: PTO won't engage until parking brake is set.-Once parking (holding) brake is set, PTO and machine functions are enabled.-If parking (holding) brake is disengaged, both PTO and machine functions are disabled.	1	
23.	Standard PTO/Transmission Functionality for Automatic Transmissions -If chassis is in gear, and PTO switch is activated, PTO will not engage. Chassis will remain in gear. Once the chassis is shifted back into gear the PTO will disengage. For some truck configurations the PTO switch must be turned off to allow the transmission to shift into gear.	1	
	Body		
24.	Altec Chip Dump Body 14.5 cubic yard capacity, 96 inches wide x 60 inches high x 132 inches long (2438 x 1524 x 3353 mm) with ladder box on curb side of body and single piece tailgate **A.** Structural Channel stringers and floor channel. **B.** 12 gauge minimum floor plate. **C.** 14 gauge minimum sides and front with full length die-formed reinforcing ribs. **D.** 14 gauge roof. **E.** Rear top and sides of body reinforced for lower boom support. **F.** 26-1/2 inches (673 mm) high tailgate, hinged curb side with provision to hold open for dumping. **G.** 12 gauge minimum rear under body skirt panel. **H.** Class "C" Hydraulic hoist, installed, with 45 degree dump angle and body prop. **I.** LED lighting package, rubber grommet-mounted, with wiring harness in automotive type loom. **J.** Two(2) LED strobes mounted in the upper rear corners of the dump body. **K.** Curb side built-in ladder compartment, 12 inches wide x 25 inches high (305 x 635 mm) with wear pad and internal security chain.	1	

Item	Description	Qty	Price
	L. Pole pruner compartment, 11 inches high (279.4 mm), above ladder compartment with dual shelves and rear locking door. Upper section of rear door opening is open. **M.** Interior of chip body finished with scratch and corrosion resistant liner **N.** Underside of chip body undercoated. **O.** Painted White		
25.	Altec T-66 Thru Box with curbside and streetside compartments containing the following: **A.** Streetside: Single compartment (66 inches long x 50 inches high x 26.5 inches deep) with two (2) barn-style doors and one (1) vertical door. Two (2) full width shelves fixed at 11 inches and 25 inches from top. Rubber matting (0.125 inch thick) in bottom. Right side has access to horizontal thru compartment extending to curbside. **B.** Curbside: Single compartment (41 inches long x 50 inches high x 26.5 inches deep) with two (2) barn-style doors. Left side has two (2) full width shelves fixed at 11 inches and 25 inches from top. Right side has six (6) material hooks (3-0-3). Platform mounted behind compartment 12 inches high x 25 inches wide x 26.5 inches deep. Horizontal thru compartment (6 inches high) recessed 12 inches, open to streetside with vertical partitions spaced 10 inches, 6 inches and 9 inches wide with drop-down door. Access step to T-box compartment top. **C.** Standard features: Bolt-on door locks. Gas shock door holders. Door locks are three-point t-handle latches with lock cylinders. Finish paint interior compartments the same as exterior. Integrated locking system. Front master locking handle. **D.** Provide mounting bracket for hydraulic reservoir on top of transverse behind curbside vertical compartment. **E.** Automotive undercoating applied to entire underside of body. **F.** Painted White	1	
	Body and Chassis Accessories		
26.	Cab Guard, 140" L, 12 GA Sheet Metal With Non-Skid Surface And Expanded Metal Section At Front, Black Gator Hyde Coating **A.** Cab Guard Mounting Kit **B.** Front Supports For Cab Guard	1	
27.	Underride Protection Bumper Installed At Rear	1	
28.	Rigid Style Pintle Hitch (30,000 LB MGTW with 6,000 LB MVL), 4-Bolt Face Mount, Buyers PH15 (T-60 Style) (Forestry Applications)	1	
29.	Set Of D-Rings for Trailer Safety Chain, installed one each side of towing device mount.	1	
30.	Cab Guard Access Stirrup Step(s) With Grab Handle(s) At Curbside Rear Of Cab Guard	1	
31.	Rigid Access Step Under Through Box Side Access Platform	1	
32.	Platform Rest, Rigid with Rubber Tube	1	
33.	No Automatic Lower Boom Stow Securing System	1	
34.	Wood Outrigger Pad, 19.5" x 19.5" x 1.88", With Fluorescent Orange Steel Band Around The Outer Edges And Chain Handle	2	

Item	Description	Qty	Price
35.	Grab Handle Installed On Top Of Lower Controls	1	
36.	Outrigger Pad Holder, 20" L x 20" W x 3.5" H, Fits 19.5" x 19.5" x 2.25" And Smaller Pads, Bolt-On, Bottom Washout Holes, 3/4" Lip Retainer	2	
37.	Mud Flaps With Altec Logo (Pair)	1	
38.	Wheel Chocks, Rubber, 9.75" L x 7.75" W x 5.00" H, with 4" L Metal Hairpin Style Handle (Pair)	1	
39.	Wheel Chock Holders (Pair), For Installation Under Flatbed Or Dump Body	1	
40.	Small Grab Handle Installed On Front Of Dump Body At Through Box Side Access Platform	1	
41.	Small Grab Handle Installed on Rear of Through Box on Curbside at Through Box Side Access Platform	1	
42.	Grab Handle Installed on Top of Curbside Rear Through Box Compartment	1	
43.	Slope Indicator Assembly (Pair) For Machine With Outriggers	1	
44.	Cone Holder, Horizontal Style with Vertical Pivot (Un-folds Upwards), For Mounting On Front Bumper (Holds up to four 15"x15" large cones)	1	
45.	Safety Harness & 4.5 FT Lanyard (Medium To X-large)	1	
46.	Driveaway Safety Kit	1	
47.	Vinyl manual pouch for storage of all operator and parts manuals	1	
	Electrical Accessories		
48.	Lights and reflectors in accordance with FMVSS #108 lighting package. (Complete LED, including LED reverse lights)	1	
49.	4-Corner Strobe Lighting, Amber LED,Two (2) Round Lights in Front Corners of Cab Guard and Two (2) Round Lights at Rear	1	
50.	Strobe Lights Wired Battery Hot	1	
51.	Dual Tone Back-Up With Outrigger Motion Alarm	1	
52.	PTO Hour Meter, Digital, with 10,000 Hour Display	1	
53.	6-Way Trailer Receptacle (Pin Type) Installed At Rear	1	
54.	Electric Trailer Brake Controller (Tekonsha Voyager #9030)	1	
55.	Altec Modular Panel System (AMPS) - Includes Mounting Panel and Accessory Switches	1	
56.	Install secondary stowage system.	1	
57.	Install Outrigger Interlock System	1	

Item	Description	Qty	Price
58.	Heavy Duty Secondary Stowage Pump	1	
59.	No Upper Boom Out of Stow Indicator	1	
60.	No Lower Boom Out of Stow Indicator	1	
61.	Dump Body Out of Stow Indicator Light, Installed In Cab	1	
62.	PTO Indicator Light Installed In Cab	1	
	Finishing Details		
63.	Powder Coat Unit Altec White	1	
64.	Finish Paint Body Accessories Above Body Floor Altec White	1	
65.	Altec Standard; Components mounted below frame rail shall be coated black by Altec. i.e. step bumpers, steps, frame extension, pintle hook mount, dock bumper mounts, D-rings, receiver tubes, accessory mounts, light brackets, under-ride protection, etc. Components mounted to under side of body shall be coated black by Altec. i.e. Wheel chock holders, mud flap brackets, pad carriers, boxes, lighting brackets, steps, and ladders.	1	
66.	Vehicle Height Placard, Installed In Cab	1	
67.	Apply Non-Skid Coating to all walking surfaces	1	
68.	English Safety And Instructional Decals	1	
69.	Placard, HVI-22 Hydraulic Oil	1	
70.	Dielectric test unit according to ANSI requirements.	1	
71.	Stability test unit according to ANSI requirements.	1	
72.	Focus Factory Build	1	
73.	Delivery Of Completed Unit	1	
74.	Inbound Freight	1	
75.	As Built Electrical And Hydraulic Schematics To Be Included In The Manual Pouch	1	
76.	Quick Turnaround	1	
77.	Stock Unit	1	
	Chassis		
78.	Altec Supplied Chassis	1	
79.	Altec Stock Chassis	1	

A. 2025 Model Year
B. Freightliner M2-106 Plus

Item	Description	Qty	Price
C.	Regular Cab		
D.	4x2 Drivetrain		
E.	Chassis Color - White		
F.	Cummins B6.7 Engine		
G.	240 HP Engine Rating		
H.	Allison 3500 RDS Automatic Transmission		
I.	Air Brakes		
J.	Clear Cab to Axle Length - 139 inches Actual Cab to Axle Length - 142 inches		
K.	33,000 LBS Gross Vehicle Weight Rating (GVWR)		
L.	13,220 LBS Front Axle Weight Rating (FAWR)		
M.	21,000 LBS Rear Axle Weight Rating (RAWR)		
N.	016-1C3 - Freightliner Horizontal Exhaust (Right-Horizontal-Behind Cab-Horizontal)		
O.	Driver Controlled Locking Differential		
P.	Park Brake In Rear Wheels		
Q.	204-215 Freightliner 50 Gallon Fuel Tank (Left Hand Under Cab)		
R.	Freightliner - Pre-Wire Chassis with No Cab Backwall Pass-Thru (33U-011)		
S.	No Idle Engine Shut-Down Required		
T.	Air Conditioning		
U.	AM/FM Radio		

Additional Pricing

80.	Standard Altec Warranty: One (1) year parts warranty, one (1) year labor warranty, ninety (90) days warranty for travel charges, limited lifetime structural warranty	1	

Unit / Body / Chassis Total	**223,262.00**
Additional Total	**0.00**
FET Total	**0.00**
Total	**223,262.00**

Altec Industries, Inc.

BY

Abbott Tobin Gaddy

Notes:

1 Altec will make every effort to honor this quotation, subject to the following provisions. Prices for equipment with production start dates 12 months and beyond are budgetary only due to irregular cost inflation and market volatility. These prices will be reviewed based on market conditions and confirmed closer to the production date.

For a quoted chassis model year beyond the current open order bank, chassis model year, specifications

and price should be considered estimates only and subject to change. Chassis model year, specifications and price will be reviewed and confirmed when specific model year information becomes available from the OEM.

2 Estimated Delivery: 1-3 months after receipt of order PROVIDING:
A. Customer supplied chassis is received a minimum of sixty (60) days before scheduled delivery.
B. Customer approval drawings are returned by requested date.
C. Customer supplied accessories are received by date necessary for compliance with scheduled delivery.
D. Customer expectations are accurately captured prior to major components being ordered (body, chassis) and line set date. Unexpected additions or changes made after this time or at a customer inspection will delay the delivery of the vehicle.

Estimated Delivery is based on information at time of quote and is subject to change.

Altec reserves the right to change suppliers in order to meet customer delivery requirements, unless specifically identified, by the customer, during the quote and or ordering process.

3 This quotation is valid until SEP 30,2024. After this date, please contact Altec Industries, Inc. for a possible extension.

4 F.O.B. - #FOB_TERMS#

5 Interest charge of 1/2% per month to be added for late payment.

6 Unless otherwise noted, all measurements used in this quote are based on a 40 inch (1016mm) chassis frame height and standard cab height for standard configurations.

7 FINANCING AVAILABLE: Please contact Altec Capital at (888) 408-8148 or email finance@altec.com for more information.

8 Price does not reflect any local, state or Federal Excise Taxes (F.E.T). The quote also does not reflect any local title or licensing fees. All appropriate taxes will be added to the final price in accordance with regulations in effect at time of invoicing.

9 Changes made to this order may affect whether or not this vehicle is subject to F.E.T. A review will be made at the time of invoicing and any applicable F.E.T. will be added to the invoice amount.

10 Any payment made by a credit card may be subject to a surcharge fee.

11 Altec Standard Warranty:

One (1) year parts warranty.

One (1) year labor warranty.

Ninety (90) days warranty for travel charges.

Warranty on structural integrity of the following major components is to be warranted for so long as the initial purchaser owns the product: Booms, boom articulation links, hydraulic cylinder structures, outrigger weldments, pedestals, subbases and turntables.

Altec is to supply a self-directed, computer based training (CBT) program. This program will provide basic instruction in the safe operation of this aerial device. This program will also include and explain ANSI and OSHA requirements related to the proper use and operation of this unit.

Altec offers its standard limited warranty with the Altec supplied components which make up the Altec Unit and its installation, but expressly disclaims any and all warranties, liabilities, and responsibilities, including any implied warranties of fitness for a particular purpose and merchantability, for any customer supplied parts

Altec designs and manufactures to applicable Federal Motor Vehicle Safety and DOT standards

12 Altec Extended Warranty Option:

An Altec Extended Warranty is an extension of Altec's Limited Warranty and protects you from the repair cost associated with defects of materials and workmanship after the standard Limited Warranty expires.

Altec offers many types of coverages and coverage packages. Ask your Altec account manager for details. Quotes are available upon request.

13 After the initial warranty period, Altec Industries, Inc. offers mobile service units, in-shop service and same day parts shipments on most parts from service locations nationwide at an additional competitive labor and parts rate. Call 877-GO-ALTEC for all of your Parts and Service needs.

14 Trade-in offer is conditional upon equipment being maintained to DOT (Department of Transportation) operating and safety standards and remaining in compliance of DOT until arrival at an Altec Facility. This will include, but is not limited to engine, tires, lights, brakes, glass, etc. All equipment, i.e., jibs, winches, pintle hooks, trailer connectors, etc., are to remain with unit unless otherwise agreed upon in writing by both parties. ALTEC Industries reserves the right to re-negotiate its trade-in offer if these conditions are not met.

All reasonable and necessary expenses required of ALTEC Industries to execute transportation of the trade-in will be invoiced to the customer for payment if these conditions are not met to maintain DOT standards.

Customer may exercise the option to rescind this agreement in writing within sixty (60) days after receipt of purchase order. After that time ALTEC Industries will expect receipt of trade-in vehicle upon delivery of new equipment as part of the terms of the purchase order unless other arrangements have been made.

15 The final fully loaded weight of the truck and structural ratings of the hitch assembly may reduce the towing capacity and the vertical load capacity of the finished truck. These capacities may not match the ratings of the chassis or hitch.

16 Altec takes pride in offering solutions that provide a safer work environment for our customers. In an effort to focus on safety, we would encourage you to consider the following items:

Outrigger pads (When Applicable)
Fall Protection System
Fire extinguisher/DOT kit
Platform Liner (When Applicable)
Altec Sentry Training
Wheel Chocks

The aforementioned equipment can be offered in our new equipment quotations. If you find that any of these items have not been listed as priced options with an item number in the body of your quotation and are required by your company, we would encourage you to contact your Altec Account Manager and have an updated quote version sent to you. These options must be listed with an item number in the quotation for them to be supplied by Altec.

17 Altec values your data privacy. The Altec Family of Companies (including Altec, Inc., and it's subsidiaries) may collect telematics data from the equipment you own. Please review Altec's Equipment Data Privacy Notice on www.altec.com for more information. By purchasing equipment from Altec, you consent to Altec's right to collect and use such data.

18 Please direct all questions to Alec Deker at (919) 528-2535

Altec Industries, Inc.

Quote Number:	1335910
Opportunity Number:	23006646
Sourcewell Contract #:	110421-ALT
Date:	9/16/2024

Quoted for: City of Winter Haven (FL)
Customer Contact:
Phone: / **Email:**
Quoted by: Abbott Gaddy
Phone: / **Email:**
Altec Account Manager: Alec Deker

REFERENCE ALTEC MODEL		Sourcewell Price
LR860-E70	Overcenter Articulating Aerial Device (Insulated)	$261,298

(A.) SOURCEWELL OPTIONS ON CONTRACT (Unit)

1			
2			
3			
4			

(A1.) SOURCEWELL OPTIONS ON CONTRACT (General)

1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
		SOURCEWELL OPTIONS TOTAL:	$261,298

(B.) **OPEN MARKET ITEMS** *(Customer Requested)*

1	UNIT		$0
2	UNIT & HYDRAULIC ACC		$0
3	BODY	T-Box and Chip dump	$2,453
4	BODY & CHASSIS ACC		$0
5	ELECTRICAL		$0
6	FINISHING		$0
7	CHASSIS	2025 M2-106 4x2	-$15,526
8	OTHER	Altec Model Year Price Adjustment	-$27,747
		OPEN MARKET OPTIONS TOTAL:	-$40,820

SUB-TOTAL FOR UNIT/BODY/CHASSIS:	**$220,478.00**
Delivery to Customer:	**$2,784.00**
Estimated Taxes (Delivery non-taxable):	
FET:	
CA Doc/Admin/Tire Fees:	
Extended Warranty:	
TOTAL FOR UNIT/BODY/CHASSIS:	**$223,262.00**

(C.) **ADDITIONAL ITEMS** (items are not included in total above)

1			
2			
3			
4			

Pricing valid for 45 days

NOTES

PRICING: Altec will make every effort to honor this quotation, subject to the following provisions. Prices for equipment with production start dates 12 months and beyond are budgetary only due to irregular cost inflation and market volatility. These prices will be reviewed based on market conditions and confirmed closer to the production date. Quotes and orders with chassis model year beyond the current open order bank, should be considered estimates only. Altec's turn-key pricing is subject to change in accordance with chassis pricing received from the OEM. Chassis model year, specifications and price will be reviewed and confirmed when specific model year information becomes available from the OEM and that chassis price difference will be passed through to the customer.

PAINT COLOR: White to match chassis, unless otherwise specified
WARRANTY: Standard Altec Warranty for Aerials and Derricks - One (1) year parts warranty One (1) year labor warranty Ninety (90)
TO ORDER: To order, please contact the Altec Account Manager listed above.
CHASSIS: Per Altec Commercial Standard
DELIVERY: No later than **1-3** months ARO, FOB Customer Location
TERMS: Net 30 days
BEST VALUE: Altec boasts the following "Best Value" features: Altec ISO Grip Controls for Extra Protection, Only Lifetime Warranty on Structural Components in Industry, Largest Service Network in Industry (Domestic and Overseas), Altec SENTRY Web/CD Based Training, Dedicated/Direct Gov't Sales Manager, In-Service Training with Every Order.
TRADE-IN: Please ask your Altec Account Manager for more information
BUILD LOCATION: Creedmoor

DATE: November 27, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Brittany Hart, Public Works Director

SUBJECT: Urban Forest Master Plan Implementation Services

BACKGROUND

The City issued Request for Qualifications (RFQ-24-24) for urban forest maintenance and planting services, including young tree care, planting, routine and emergency pruning, and tree removals.

Three firms were recommended for award: Evolve Contracting Inc., Summerall Environmental LLC, and The Tree Lady Company. This recommendation was approved by the City Commission on July 22, 2024, authorizing the City Manager to enter into consulting service agreements extending over five years with the shortlisted firms.

Of the three firms, two—Evolve Contracting Inc. and Summerall Environmental LLC—have signed master continuing service agreements.

To advance critical urban forest initiatives and support environmental stewardship efforts, staff seeks authorization to issue a blanket purchase order to Evolve Contracting Inc. for young tree planting, care, and maintenance, and a blanket purchase order to Summerall Environmental LLC for tree removal and pruning. These purchase orders do not guarantee work; instead, individual confirming notifications will be issued to ensure proper inventory management and tracking for grant reimbursement purposes.

FINANCIAL IMPACT

The City has allocated $695,608 for the implementation of the Urban Forest Management Plan over the next four years, with $347,804 eligible for reimbursement through a grant received from the U.S. Forest Service.

Staff recommends issuing a blanket purchase order to Evolve Contracting Inc. for $75,000 for young tree planting, care, and maintenance, and a blanket purchase order to Summerall Environmental LLC for $150,000 for tree removal and pruning. These purchase orders would expire on September 30, 2026,

halfway through the project timeline, unless staff seeks approval from the City Manager to issue a change order extending the purchase order's time and amount for the second half of the project.

STRATEGIC PLAN ALIGNMENT

- Pillar: Environmental Stewardship
- Goal: 4.1 – Implement strategies to support a more robust urban forest.
- Strategy: 4.1.1 – Implement and maintain the Urban Forest Master Plan and provide an annual status report to the community.

RECOMMENDATION

Staff recommends that the City Commission authorize the issuance of blanket purchase orders to Evolve Contracting, Inc. in the amount of $75,000 for young tree planting, care, and maintenance, and to Summerall Environmental LLC in the amount of $150,000 for tree removal and pruning, and authorize the City Manager or his designee to take any additional action necessary thereto.

DATE: October 28, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Gary M. Hubbard, Water Department Director

SUBJECT: Logistics Parkway/Pollard Rd. Extension, Kimley-Horn, Design and permitting Amendment #6

BACKGROUND

On May 24, 2022, the City entered into a Professional Consulting Services Agreement based on the qualifications from RFQ-22-27 for the Logistics Parkway Extension, Roadway and Utility Construction, Planning Document & Design Services with Kimley-Horn and Associates, Inc. This Amendment #6 to the agreement includes requested additional design services for a regional stormwater pond (outfall design), wetland monitoring and data collection. With the recent changes to the State 404 wetland permitting, the US Army Corps of Engineers (USACE) permitting is required for the proposed construction of a regional stormwater pond, this additional work is vital to the success and progress of the project. The proposed pond also creates future opportunity for environmental stewardship in use of stormwater.

The new road will connect the existing Logistics Parkway to Pollard Road and provide access to water, reuse water, regional stormwater collection and retention to, and through, approximately 128 additional acres of fully entitled industrial property. Creating additional access and utility infrastructure will further expand the industrial growth opportunity for the region and bring forth additional highly desirable job opportunities in manufacturing and industrial space.

FINANCIAL IMPACT

Funds are available in Fiscal Year 2024/2025 under accounts 301-80-205-6311 and 402-08-316-6301 for the additional work detailed in Amendment #6 for design/permitting in the amount of (not to exceed) $75,500.00.

The Logistics Parkway Extension, Roadway and Utility Construction Phase I project is funded through a Public Transportation Grant with Florida Department of Transportation (FDOT) and the Department of Commerce to promote economic opportunity by improving public infrastructure and enhancing workforce training, specifically for construction of a road to connect Logistics Parkway to Pollard Road.

STRATEGIC PLAN ALIGNMENT

- Pillar: Environmental Stewardship
- Goal: 4.4 – Integrate the elements of One Water philosophy to ensure a balance between water supply and nature.
- Strategy: 4.4.3 – Innovative approaches to water resource infrastructure that further protect the natural environment.

RECOMMENDATION

Staff recommends the City Commission approval of Amendment #6 to Kimley-Horn and Associates, Inc. (Lakeland, FL) to the Professional Consulting Services Agreement from RFQ-22-27 Logistics Parkway Extension, Roadway and Utility Construction Planning Document and Design and authorize the City Manager or his designee to take any and all further actions necessary thereto.

ATTACHMENTS

- Kimley-Horn Amendment No. 6
- Change Order Authorization Form

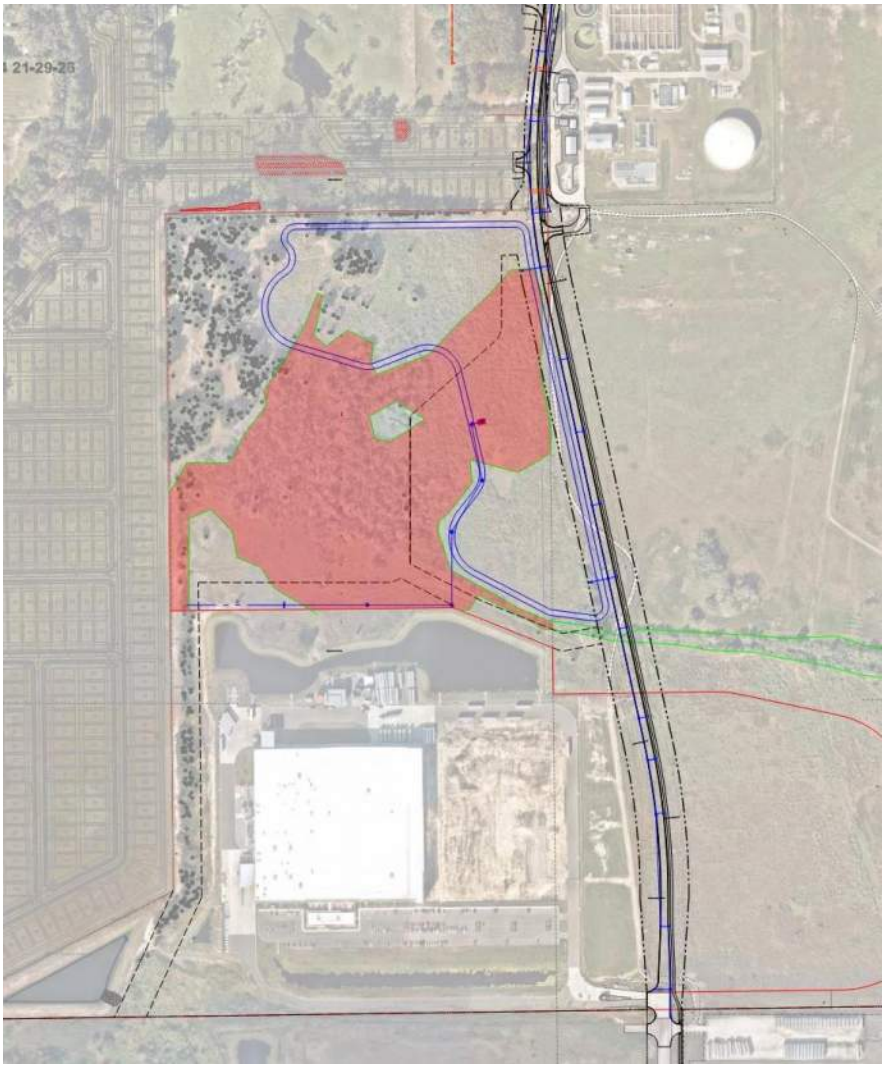
August 28, 2024

Mr. Todd Gooding
Capital Improvements Project Administrator App.
PO Box 2277
451 Third Street NW
Winter Haven, FL 33883-2277

RE: ***Amendment No. 6 to Agreement RFQ 22-17 signed June 14, 2022***

PROJECT UNDERSTANDING

The City of Winter Haven (Client), in response to an unforeseen U.S. Army Corps of Engineers (USACE) request, has requested the Kimley-Horn team to provide simultaneous USACE permitting tracts pertaining to the wetland being impacted by the proposed regional pond site (see graphic below) and as described in the Scope of Services below:



Kimley-Horn has prepared an USACE Approved Jurisdictional Determination (AJD) for this project as a separate scope of work. The intent of the AJD is to contest jurisdiction over the onsite aquatic features. At the request of the USACE, further groundwater and surface water monitoring is needed to understand connectivity of the onsite aquatic features to offsite aquatic features which are jurisdictional to the USACE. At this time, it is Kimley-Horn's understanding that the USACE may claim jurisdiction of the onsite aquatic features. At the City's request, and to prevent a significant delay in project schedule, Kimley-Horn will complete **Task 2** and **Task 3** below concurrently.

SCOPE OF SERVICES

Amendment No. 6 Task 1 – Regional Pond Outfall Redesign

Change Order Task 1 – Regional Pond Drainage Design is amended to account for the analysis of the Regional Pond outfall to be directed through the proposed development downstream of the Florida Canning Manufacturing property. This ditch outfall runs along the western side of the Florida Canning Manufacturing property and continues south to another ditch that runs along the perimeter of the Winter Haven ILC – NW Borrow Pit property (SWFWMD ERP 43031900.029). It is anticipated that improvements to the ditch that runs along the Borrow Pit property will be needed and a modification to the SWFWMD ERP 43031900.029 will be required. The modifications will consist of the following:

- Updating stormwater modeling and documentation
- Analyzing the existing drainage conditions of the new outfall ditch and the required improvements to accommodate the Regional Pond outfall to the ditch
- Additional plan sheets consisting of:
    - Outfall ditch plan profile sheets
    - Drainage detail sheets

Amendment No. 6 Task 2 – Wetland Monitoring and Data Collection

Kimley-Horn will install monitoring stations along Surface Water 1 and Surface Water 2 to monitor surface water and groundwater flow from Wetland 1 to offsite aquatic features jurisdictional to the USACE. Kimley-Horn will perform site visits up to once a month for eight (8) months to collect photographs and record the existing conditions at the times of the site visits. After the completion of the eight (8) site visits, Kimley-Horn will compile the results into a Wetland Monitoring Report for submittal to the USACE.

Amendment No. 6 Task 3 – USACE Permitting (Not To Exceed Hourly Task)

Kimley-Horn will prepare a Section 404 Individual Permit application package including necessary supporting documentation. Kimley-Horn will prepare ENG Form 4345 which includes reasoning for discharge, fill volumes, avoidance and minimization language, and addresses of adjoining property owners. Kimley-Horn will prepare wetland impact plan sheets along with dredge and fill sketches. The impact plan sheets will illustrate proposed work in jurisdictional waters. The wetland impact plan sheets and dredge and fill sketches will include volume calculations, acreages of impacts, and type of dredge or fill. Kimley-Horn will prepare an exhibit package including but not limited to a project location map, U.S. Geological Survey map, soils map, and aquatic resources map to accompany the application package.

The USACE requires the proposed impacts within a Section 404 Individual Permit to be the least environmentally damaging practicable alternative (LEDPA). Kimley-Horn will prepare an Alternatives Analysis which complies with the LEDPA requirement. Kimley-Horn will work with the Client to develop the Alternatives Analysis. Onsite

alternatives have been assessed by Kimley-Horn as part of prior services. The onsite alternatives will also be used to develop the Alternatives Analysis.

Kimley-Horn will work with the Client to develop a public interest review document to comply with 33 CFR 320.4 and submit along with the permit application.

Kimley-Horn will submit the Section 404 Individual Permit application package to the USACE and respond to up to two (2) Requests for Additional Information (RAI) from USACE. Additional coordination with the USACE reviewer and Client is also included in this task.

It is anticipated that agency and public comments will be provided following the USACE Public Notice. Kimley-Horn will review these public and agency comments and generate a memorandum of responses to comments for inclusion in the Section 404 Individual Permit request. It is anticipated that only relevant/substantiative public comments will need to be addressed. Individual comment responses will be provided for the more detailed technical comments or comments relating specifically to Section 404 regulatory concerns. Kimley-Horn will coordinate with the Client to address all comments.

Client will be responsible for signing all necessary application forms and all mitigation fees, if any, associated with the permit application. Client signature is required on application documents and permitting timeline will be dependent on Client turnaround time of necessary signatures.

Kimley-Horn does not guarantee the issuance of permits or approvals. If permits are issued for this project, the conditions and expiration dates are the sole responsibility of the Client. Kimley-Horn is not responsible for extending time limited entitlements or permits. Kimley-Horn can provide hourly additional services to file for extensions, if applicable, provided the Client issues a direct written request for each requested entitlement, prior to the dates of expirations. No permit fees are anticipated under this task.

Deliverables:

- ENG Form 4345
- Wetland Impact Plan Sheets
- Dredge and Fill Sketches
- Exhibit Package
- Public Interest Review
- Alternatives Analysis
- Request for Additional Information #1
- Request for Additional Information #2 (If required)
- Public and Agency Comment Responses

FEE AND BILLING

Kimley-Horn will perform the services in this amendment for the fees shown below. The below table is informational only.

Task	Description	Fee
Amendment No. 6 Task 1	Regional Pond Outfall Redesign	$23,000
Amendment No. 6 Task 2	Wetland Monitoring and Data Collection	$10,500
Amendment No. 6 Task 3	USACE Permitting (Not to Exceed Hourly)	$42,000

Kimley-Horn and Associates, Inc.
1800 Second Street, Suite 900
Sarasota, FL 34236

By: Date: 8/28/24
Gary Nadeau, P.E.
Principal

City of Winter Haven
401 6th Street SW
Winter Haven, FL 33880

By: Date:
Todd Gooding
Capital Improvements Project Administrator App.

City of Winter Haven, Florida Purchase Order Information

Project: Logistics Parkway Extension
Location: City of Winter Haven
KH Project #: 148895009

City Ref. #: RFQ 22-17
P.O. Date: 6/14/22

CHANGE ORDER AUTHORIZATION (COA)

This Change Order Authorization (COA) form is utilized when a change to a project increases the cost of the project by $5,000 or 1% of the amount of the original PO, whichever is more. If the original project amount was approved by the City Commission, allowing the City Manager to take any and all actions necessary to complete the project, then the COA may be approved by the City Manager.

*If the COA includes changes to the design or changes in the scope of work on a major City project, the COA must also be signed by the City Engineer or his designee.

Date 10.15.2024 Purchase Order (PO) # 20223-00000158 CO# _____

Project Name / Bid # 2023-316C-001 Logistics Pkwy./Pollard Rd. Extension

Vendor Name Kimley-Horn

Account # _____ Project Code _____

Original PO Amount $ 1,498,727.00 Original # of Contract Days: N/A

Total Cost of Previously Issued COs $ _____ Additional Contract Days: 0

Total Cost of this CO: $ 75,500.00 Additional Contract Days: 0

NEW PO amount inclusive of ALL change orders to date: $ 1,574,227.00

Reason needed: In response to an unforeseen U.S. Army Corps of Engineers (USACE) request Kimley-Horn team to provide simultaneous USACE permitting tracts pertaining to the wetland being impacted by the proposed regional pond site

This is to include:

Task 1 – Regional Pond Outfall Redesign

Task 2 – Wetland Monitoring and Data Collection

Task 3 – USACE Permitting (Not To Exceed Hourly Task)

*scope detailed in the attached amendment document

AUTHORIZATIONS

Department Director: _____ City Engineer*: N/A

**Date of Commission Approval: _____

If applicable (or denote if this is listed as a line item in approved budget and approval not required)

DATE: November 22, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Gary M. Hubbard, Water Department Director

SUBJECT: Award of ITB-24-44 for Directional Drilling Services

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BACKGROUND

The City of Winter Haven owns, operates, and maintains potable and reclaimed water distribution systems; and a wastewater collection system within its 77 square mile service area. On September 17, 2024, the City requested the submittal of bids from vendors interested in providing turnkey directional bore services and on November 7, 2024, two bids were received.

The City reserved the right to make multiple awards to highly qualified firms based on the lowest bidding firm as the primary contractor and the second lowest firm as the secondary contractor. A Recommendation of Award was posted November 19, 2024 with no protest received in response.

The period of performance for this bid is from the date of award through a five (5) year term, unless otherwise terminated in accordance with Terms and Conditions – General Provision. If the City provides notice to the vendor at least 30 days prior to the termination date that it has not put in place a new bid for the services, then this bid shall remain in effect on a month-to-month basis until terminated by written notice from the City Procurement Division.

FINANCIAL IMPACT

Funds are budgeted annually in 402-08-322 and 402-08-323 under Contract Services (3404) and Repair and Maintenance (4605) for the “as needed” services.

STRATEGIC PLAN ALIGNMENT

- This is a routine purchase associated with normal operations of the City not specifically defined as a goal or strategy within the Strategic Plan. However, it is aligned with the Infrastructure Strategic Pillar.

RECOMMENDATION

Staff recommends the City Commission award the Directional Drill Services continuing contract to P&M Communications Contractors, Inc. as the primary contractor and SabCon Underground, LLC as the secondary contractor, and authorize the City Manager or his designee to take any additional action necessary thereto.

ATTACHMENTS

- ITB-24-44 Bid Tab Sheet.
- ITB-24-44 Recommendation of Award.

ITB-24-44
November 7, 2024
City of Winter Haven
Tabulation of Bids

Directional Bore Services - Continuing Contract

Description	**Bidder No 1 Primary** P&M Communications Contractors Inc. Lakeland, FL	**Bidder No 2 Secondary** SabCon Underground, LLC Winter Haven, FL
	Total Price	**Total Price**
Total Proposed Project Costs	$327,200	$361,600

Prepared by: BethanyOwen Date: 11/19/2024

City of Winter Haven
Financial Services

NOVEMBER 19, 2024

To: All firms submitting proposals

Subject: Recommendation of Award

Attention proposing firms:

City of Winter Haven staff has recommended the award of ITB-24-44 "Directional Bore Services – Continuing Contract" to P&M Communications Contractors, Inc., as Primary lowest responsive/responsible bidder meeting all bid requirements and SabCon Underground, LLC as Secondary, lowest responsive/responsible bidder meeting all bid requirements.

If you have any questions, I can be reached via email at procurement@mywinterhaven.com.

Sincerely,
CITY OF WINTER HAVEN

Bethany Owen

Bethany Owen
PROCUREMENT MANAGER

DATE: December 2, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Charlie Bird, Assistant City Manager – Public Safety
Vance Monroe, Police Chief

FROM: Donald Nunnery, Police Captain

SUBJECT: State Financial Assistance Drone Replacement Program

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BACKGROUND

The Police Department currently has three (3) Drones that are recommended for replacement. The justification for Police use of drones revolves around enhancing public safety, improving operational efficiency, and supporting a wide range of law enforcement activities. General Order 46.8 (Drone Response Unit) from the Winter Haven Police Department outlines the policies and procedures for the operation of the Drone Response Unit.

Uses for the Drone Response Unit (DRU)

1. Operational Support:
    - Assist in patrol and investigative operations by providing rapid aerial support.
    - Enhance response times by reducing dependency on external aerial assets.
2. Specific Missions:
    - Support in-progress calls where aerial observation is beneficial.
    - Search operations for fleeing suspects or missing persons.
    - Emergency Response Team (ERT) support (e.g., barricaded suspects, active assailants).
    - Counter-terrorism activities.
3. Inter-agency Support:
    - Provide assistance to other agencies upon request.
4. Evidence Gathering:
    - Document scenes through photographs or video during authorized missions, such as those requiring search warrants.
5. Training and Demonstrations:
    - Conduct non-emergency training flights and demonstrations for operational readiness.

Operational Framework and Guidelines

- Assignment:
  - Officers assigned to the DRU must be certified law enforcement officers with specific training and FAA certification.
- Usage Policy:
  - Deployment decisions require approval from supervisory personnel.
  - Operations must comply with federal, state, and local regulations to protect privacy and safety.
- Equipment Maintenance:
  - Drones must be kept in mission-ready condition, and maintenance records must be meticulously logged.

Prohibited Uses

- Surveillance without a search warrant where a person has a reasonable expectation of privacy.
- Conducting personal business.
- Operating in unsafe weather or conditions contradicting the manufacturer's specifications.

The Department's current drones have not been operating for several years due to the State's restrictions on drones manufactured in different countries. The Florida Department of Law Enforcement currently has a program that provides financial assistance to law enforcement agencies that would like to replace their drones with units from an approved manufacturing company.

FINANCIAL IMPACT

The Drone Replacement Program covers the entire cost of replacing three of the Department's current drones. The Police Department will be awarded funds commensurate with the replacement cost, not to exceed $25,000 per compliant drone, for each non-compliant drone relinquished to the FDLE.

Axon Air submitted a quote for replacing three of the Department's current drones with Skydio X10 drones at $24,999.97 each, for a total cost of $74,999.91. The City also has an approved Sole Source vetted by Procurement.

The Program offers two options for purchasing:

1. Reimbursement: The Recipient may use its own funds to purchase the compliant drone and provide documentation related to the purchase, including a purchase order, invoice, and proof of payment. This method may be used for agencies that purchased a compliant drone before this Program was released.

2. Cash Advance: The Recipient may request a cash advance to receive program funds and purchase the compliant drone. In order to qualify for this method of payment, the Recipient must provide a valid, executed purchase order and must be ready to order the compliant drone immediately upon the receipt of advanced funds. The Recipient must provide documentation of purchase and proof of payment within 45 days of receiving the advanced funds.

The department requests to use option 2 (Cash Advance) to purchase the replacement drones, which will have minimal financial impact on the City.

STRATEGIC PLAN ALIGNMENT

- Pillar: Community Safety
- Goal: 5.4 – Ensure local government functions are aligned with community safety best practices.

RECOMMENDATION

Staff recommends City Commission authorization to participate in the FDLE Drone Replacement Program.

ATTACHMENTS

- Drone Replacement Program Information
- Axon Quote
- Sole Source Letter

Award #: 3X111
CSFA: 71.092

Drone Replacement Program Financial Assistance Agreement between Florida Department of Law Enforcement and Winter Haven Police Department

This agreement is entered into by and between the Florida Department of Law Enforcement (herein referred to as "FDLE" or "Department") and the Recipient Agency named above.

WHEREAS, the Department has the authority pursuant to Florida law and does hereby agree to provide state financial assistance to the Recipient upon the terms and conditions hereinafter set forth, and

WHEREAS, The General Appropriations Act, 2023 Legislature, Section 123 provides approximately $25,000,000 in nonrecurring funds to the Florida Department of Law Enforcement for the Drone Replacement Program established in Chapter 2023-240, Laws of Florida, and

WHEREAS, The General Appropriations Act, 2024 Legislature, Section 147, reverted and appropriated the unexpended balance of funds for use in the 2024-2025 fiscal year, and

WHEREAS, Chapter No. 2024-228, Section 44, amended Drone Replacement Program requirements, and

WHEREAS, Section 934.50, Florida Statutes establishes rules, regulations, and security standards for the use of drones by governmental entities, and

WHEREAS, pursuant to Rule 60GG-2.0075, Florida Administrative Code, the Department of Management Services (DMS) has published minimum security standards for drones used by governmental entities; and

WHEREAS, the Recipient purchased a drone that does not meet the minimum security standards in Rule 60GG-2.0075, Florida Administrative Code, and

WHEREAS, the Recipient seeks to receive funding to replace the noncompliant drone with a drone that meets required minimum security standards.

NOW THEREFORE, in consideration of the foregoing, the parties hereto agree to this agreement as follows:

This agreement is subject to all applicable state financial assistance standard conditions provided in **Appendix B**.

The State of Florida's performance and obligation to pay under this agreement is contingent upon an appropriation by the Legislature, availability of funds, and subject to any modification in accordance with Chapter 216, Florida Statutes or the Florida Constitution.

FDLE will administer and disburse funds under this agreement in accordance with sections 215.97, 215.971, 215.981 and 215.985, F.S. for state financial assistance. The Recipient shall perform all tasks, activities, and provide deliverables, including reports, as specified in this agreement. FDLE's determination of acceptable expenditures shall be conclusive.

The Recipient certifies with respect to this agreement that it possesses the legal authority to receive the funds to be provided under this agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this agreement with all covenants and assurances contained herein. The Recipient also certifies that the undersigned possesses the authority to legally execute and bind Recipient to the terms of this agreement.

Award #: 3X111
CSFA: 71.092

Expenditures of state financial assistance shall be compliant with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures published by the Florida Department of Financial Services.

OVERVIEW AND FUNDING

Project Title: FY2024-25 Drone Replacement Program

Project Start Date: 07/01/2024 **Project End Date:** 06/30/2025

Program Activities and Scope of Work

The Florida Legislature amended Section 934.50, Florida Statutes during the 2022 session. By July 1, 2022 governmental agencies using any drone not produced by an approved manufacturer must implement a plan to discontinue the use of the such drone by January 1, 2023. This grant provides funding for the Recipient to replace drones that are not in compliance with Rule 60GG-2.0075, Florida Administrative Code. The Recipient will be awarded funds in an amount commensurate with the replacement cost, not to exceed $25,000 per compliant drone, for each noncompliant drone relinquished to the Department.

To be eligible for payment under this program, the noncompliant drone must not be at end-of-life and must still be in working condition. In order to receive reimbursement for this program, drones which were purchased that are not compliant with the minimum security standards established in Rule 60GG-2.0075, Florida Administrative Code, must be relinquished to the Florida Department of Law Enforcement.

In accordance with revised program guidelines established in the 2024 legislative session, the first two functional drones of each make and model relinquished to the Department, will be provided to the Florida Center for Cybersecurity at the University of South Florida (USF) for analysis. All drones relinquished to the Department and not subsequently provided to the Florida Center for Cybersecurity will be destroyed.

Additionally, under the new program guidelines established in 2024-228, Section 44, the Department will use a portion of these funds to increase awards previously provided in fiscal year 2023-2024, which were based on the noncompliant drone's current value.

RECIPIENT'S RESPONSIBILITY

The Recipient must prepare a Drone Certification Form (**Appendix A**) for the noncompliant drone(s) they are seeking replacement for. This form includes an attestation that the noncompliant drone has not reached its end of life and is in working condition at the time it is relinquished. This must be provided to the Department at the time of relinquishment and should be accompanied by any operational manuals that distinguish make, model, and year of the noncompliant drone(s). This is crucial for the analysis conducted by the Center for Cybersecurity at the University of South Florida.

The Recipient must submit documentation for the original purchase of the noncompliant drone, including but not limited to: invoice, cancelled check or bank statement, or other proof of payment to document the noncompliant drone was originally purchased by the Recipient organization.

The Recipient is responsible for relinquishing the noncompliant drone to the Florida Department of Law Enforcement to either Tallahassee Regional Operations Center or Tampa Bay Regional Operations Center. To facilitate this process, the Recipient must schedule an appointment with the below FDLE contact for the appropriate location for relinquishment of the noncompliant drone. The days that appointments can be scheduled are Tuesdays from 9:00 AM to 5:00 PM (EST) and Thursdays from 1:00 PM - 5:00 PM (EST).

Tallahassee Regional Operations Center (TROC)– 2331 Phillips Road, Tallahassee, FL 32308
Point of Contact: Robert Lyons – 850-410-7419 – RobertLyons@fdle.state.fl.us

Tampa Bay Regional Operations Center(TBROC) – 4211 North Lois Avenue, Tampa, FL 33614
Point of Contact: Corey Monaghan – 813-878-7887 – CoreyMonaghan@fdle.state.fl.us
Alternate POC: Richard Kaplan – RichardKaplan@fdle.state.fl.us

Funds received under this program must be used to acquire drones that are compliant with Rule 60GG-2.0075, Florida Administrative Code. The approved drones must have a purchase date of January 1, 2022 or later.

DELIVERABLES

As stated in the scope and responsibilities above, the Recipient shall relinquish any noncompliant drones to the Department and purchase new drones that are compliant with Rule 60GG-2.0075, Florida Administrative Code.

DISTRIBUTION AND PAYMENTS

This award is a cost-reimbursement agreement with the ability to request a cash advance. The Recipient will be awarded funds in an amount commensurate with the replacement cost, not to exceed $25,000 per compliant drone, for each noncompliant drone relinquished to the Department.

Any funds paid in excess of the amount to which the participating agency is entitled under the terms and conditions of the agreement must be refunded to FDLE. Factual misrepresentations of drone purchases or other certifications will result in the loss of funding.

Funds under this agreement will be disbursed when all the following criteria are met:

- Executed agreement is signed by the Chief Official and provided to OCJGSFA@fdle.state.fl.us;
- The Drone Certification Form (Appendix A) is prepared and signed by the Chief Official and provided to OCJGSFA@fdle.state.fl.us;
- Noncompliant drones are relinquished to FDLE and the Drone Certification Form (Appendix A) is signed by the FDLE point-of-contact in the region where it is relinquished; and
- Drone Certification Form (Appendix A) signed by the FDLE Regional Operations Center point-of-contact is provided to OCJGSFA@fdle.state.fl.us.
- Criteria is met for Option 1 (Reimbursement) or Option 2 (Cash Advance):

  Option 1 = Reimbursement: The Recipient may use its own funds to purchase the compliant drone and provide documentation related to the purchase including: purchase order, invoice, and proof of payment (cancelled check, bank/card statement, etc.). This method may be used for agencies who may have purchased a compliant drone prior to this program being released.

  Option 2 = Cash Advance: The Recipient may request a cash advance to receive program funds and subsequently purchase the compliant drone. In order to qualify for this method of payment, the Recipient must provide a valid, executed purchase order and must be ready to order the compliant drone immediately upon the receipt of advanced funds. The Recipient must provide documentation of purchase (invoice) and proof of payment (cancelled check, bank/card statement, etc.) within 45 days of receiving the advanced funds. Failure to provide documentation within 45 days will result in the Recipient being required to submit a refund to FDLE.

FDLE GRANT MANAGEMENT CONTACTS

The following individuals can assist with any program related questions or concerns:

FDLE Grant Manager
Name: Patricia Stark
Title: Government Analyst II
Phone: 850-617-1252
Email: PatriciaStark@fdle.state.fl.us

FDLE Grant Supervisor
Name: Tennille Robinette
Title: Senior Management Analyst Supervisor
Phone: 850-617-1268 or 850-661-9295
Email: TennilleRobinette@fdle.state.fl.us

If you are unable to reach either member above directly, please call the Office of Criminal Justice Grants main line at 850-617-1250 or email OCJGSFA@fdle.state.fl.us.

Award #: 3X 111
CSFA: 71.092

RECIPIENT CONTACTS

For assistance with any contract or financial questions, the Florida Department of Law Enforcement can contact:

Contract/Grant Manager:
(please print)

Name: John Neil
Title: Technical Services Clerk
Phone: 863-298-7791
Email: jneil@mywinterhaven.com

Chief Official
(please print)

Name: Vance Monroe
Title: Deputy Chief of Police
Phone: 863-298-7543
Email: vmonroe@mywinterhaven.com

Financial Contact:
(please print)

Name: Colleen J. Scott
Title: Financial Services Director
Phone: 863-291-5667
Email: cjscott@mywinterhaven.com

Alternate Point-of- Contact
(please print)

Name: Donald Nunnery
Title: Captain
Phone: 863-291-5303
Email: dnunnery@mywinterhaven.com

Recipient's Vendor ID (FEID/EIN): 596000453

Please provide the Remittance/Payment Address where a check should be mailed if the Recipient is not set up for EFTs from the State of Florida:

Entity Name: Winter Haven Police Department
Address 1: 125 North Lake Silver Drive
Address 2:
City, State, Zip: Winter Haven, FL, 33881

Award #: 3X 111
CSFA: 71.092

SIGNATURES

In witness whereof, the parties affirm they each have read and agree to the conditions set forth in this agreement, have read and understand the agreement in its entirety and have executed this agreement by their duly authorized officers on the date, month and year set out below.

Modifications to this page, including strikeovers, whiteout, etc. are not permitted.

Florida Department of Law Enforcement
Office of Criminal Justice Grants

Signature: _____ Date: 8/29/24

Printed Name and Title: Cody Menacof, Bureau Chief

Recipient

The award is not valid until signed and dated by all required parties including either the Chief Official or Designee below. Any Designee signatures must be accompanied by documentation granting the authority to execute this agreement.

Recipient Chief Official

Signature: _____ Date: 8-27-24

Printed Name and Title: Vance Monroe, Deputy Chief of Police

*** If using a designee, sign the Chief Official Designee section below***

Recipient Chief Official Designee

Signature: _____ Date: _____

Printed Name and Title: _____

Additional Recipient Signatures (optional)

If your local process requires additional signatures (i.e., legal, clerk, etc.) use the spaces below.

Signature: _____ Date: _____

Printed Name and Title: _____

Signature: _____ Date: _____

Printed Name and Title: _____

Award #: 3X 111
CSFA: 71.092

Appendix A – Drone Certification Form

Recipient:

Select One: ☑ **New Participant** ☐ **Additional Drones (FY24-25)**

NOTE: Please do not list accessories as line items. If you wish to capture the cost of accessories your department has invested in the noncompliant drone, please add it the purchase price of the drone.

	Drone ID (Serial #)	Make	Model	Purchase Date	Purchase Price
1	0G0DF7G0240065	DJI	Matrice 210	10/16/2018	$ 20,061.00
2	0M6DF96001JU6P	DJI	Mavic 2 Zoom	12/05/2018	$ 2,151.97
3	0M6DF8W001WPW5	DJI	Mavic 2 Zoom	12/08/2018	$ 2,192.98
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					

On behalf of the Recipient, I acknowledge the following statements are true and correct:

1. The drones above are in working order and not at their end of life.
2. Funds provided for the drone(s) above will only be used for the purchase of compliant drones.
3. Documentation for the initial purchase of each relinquished, noncompliant drone above was, or will be, provided to OCJGSFA@fdle.state.fl.us.

Signature: _____ **Date:** 8-23-24

Name/Title: Vance Monroe, Deputy Chief of Police

****** FDLE Regional Operations Center ONLY ******

I certify the drones listed above were received and verified on the date provided below.

_____ _____
Signature Date

Award #: 3X111
CSFA: 71.092

Appendix B – FY2024-25 State Financial Assistance Standard Conditions

The following terms and conditions will be binding upon approval of the grant award and execution of the contract by both the Recipient and the Florida Department of Law Enforcement. The Recipient will maintain required registrations and certifications for eligibility under this program.

The Department and the Recipient agree that they do not contemplate the development, transfer or receipt of intellectual property as a part of this agreement.

SECTION I: PROJECT IMPLEMENTATION

Legal Authority: The Recipient certifies with respect to this agreement that it possesses the legal authority to receive the funds to be provided under this agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this agreement with all covenants and assurances contained herein. The Recipient also certifies that the undersigned possesses the authority to legally execute and bind Recipient to the terms of this agreement.

Not Operational within 60 and 90 Days: If a project is not operational within 60 days of the original start date of the award period, the Recipient must report by letter to the Department the steps taken to initiate the project, the reasons for delay, and the expected start date. If a project is not operational within 90 days of the original start date of the award period, the Recipient must submit a second statement to the Department explaining the implementation delay. Upon receipt of the 90-day letter, the Department shall determine if the reason for delay is justified or shall, at its discretion, require additional project documentation and justifications throughout the award period. The Department will also require the Recipient provide a revised project timeline that includes all anticipated project activities, tasks, and estimated completion date(s).

SECTION II: PAYMENTS

Obligation to Pay: The State of Florida's obligation to pay under this agreement is contingent upon an appropriation by the Legislature.

Overpayments: Any funds paid in excess of the amount to which the Recipient is entitled under the terms and conditions of the agreement must be refunded to the Department. Any balance of unobligated cash that has been paid and has not been authorized to be retained for direct program costs in a subsequent period must be refunded to the Department.

Advance Funding (Drone Program Only): Advance funding may be provided to a Recipient upon completion and submission of the following to the assigned FDLE Grant Manager: (1) a completed "Compliant Drone Cash Advance Request" form, (2) a valid, executed Purchase Order, and (3) vendor quote(s) for the compliant drone. The request form must be signed by the Chief Official. Advanced funds must be spent on drone purchase within 30 days of receipt. In order to reconcile the Cash Advance, the Recipient must provide the invoice and proof of payment for the compliant drone to the assigned FDLE Grant Manager within 45 days of the receipt of the advanced funding. Should extenuating circumstances arise which prevent the expenditure of advance funds within 30 days of receipt, or the provision of required documentation to reconcile the funds, a written request to retain the funds must be provided by the Recipient and approved by the Department. Failure to provide documentation will result in a refund of any advanced funding.

SECTION III: PROJECT AND GRANT MANAGEMENT

Personnel Changes: The Recipient must notify the FDLE grant manager of any change in the Chief Officials or Project Director or any change in contact information, including mailing address, phone number, email, or title change.

Obligation of Grant Funds: Grant funds shall not under any circumstances be obligated prior to the effective date, or subsequent to the termination date, of the period of performance. Only project costs incurred on or after the effective date, and on or prior to the termination date of the Recipient's project are eligible for reimbursement. All payments must be completed within thirty (30) days of the end of the grant period of performance.

Financial Management: The Recipient must have a financial management system able to record and report on the receipt, obligation, and expenditure of grant funds. An adequate accounting system must be able to separately track receipts, expenditures, assets, and liabilities for awards, programs, and subrecipients. The Recipient shall maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices. Recipient must have written procedures for procurement transactions.

Travel: Cost for travel shall be reimbursed at the Recipient's travel rate, but the maximum reimbursement for each type of travel cost shall not exceed rates established in State of Florida Travel Guidelines, §112.061, F.S.

Subcontracts: Recipient agrees that all employees, subcontractors, or agents performing work under the agreement shall be properly trained individuals who meet or exceed any specified training qualifications. Recipient agrees to be responsible for all work performance and all expenses incurred in fulfilling the obligations of this agreement, and will not assign the responsibility for this agreement to another party. If the Recipient subcontracts any or all of the work required under this agreement, the Recipient must provide a completed DFS-A2-NS (Recipient-Subrecipient vs. Vendor Determination) form and a copy of the executed subcontract within thirty (30) days after execution of the subcontract. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by all applicable state and federal laws and regulations, and (ii) the subcontractor shall hold the Department and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this agreement, to the extent allowed and required by law.

Grant Adjustments: Recipients must submit a Request for Grant Adjustment to the FDLE grant manager for substantive changes such as: scope modifications, changes to project activities, target populations, service providers, implementation schedules, project director, designs or research plans set forth in the approved agreement, and for any budget changes affecting a cost category that was not included in the original budget. Recipients may transfer up to 10% of the total budget between current, approved budget categories without prior approval, as long as the funds are transferred to an existing line item. Adjustments are required when there will be a transfer of 10% or more of the total budget between budget categories. Under no circumstances can transfers of funds increase the total award. Requests for changes to the grant agreement must be signed by the Recipient or Implementing Agency's chief official or the chief official's designee. All requests for changes must be submitted no later than thirty (30) days prior to grant expiration date.

Property Management: The Recipient shall establish and administer a system to protect, preserve, use, maintain, and dispose of any property furnished to it by the Department or purchased pursuant to this agreement.

SECTION IV: MANDATORY DISCLOSURES

Conflict of Interest: The Recipient will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. Recipients must disclose in writing any potential conflict of interest to the Department.

Violations of Criminal Law: The Recipient must disclose all violations of state or federal criminal law involving fraud, bribery or gratuity violations potentially affecting the grant award.

Convicted Vendors: The Recipient shall disclose to the Department if it, or any of its affiliates, as defined in §287.133(1)(a) F.S., is on the convicted vendor list. A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any activities listed in the agreement for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

Vendors on Scrutinized Companies Lists: If this agreement is in the amount of $1 million or more, Recipient certifies upon executing this agreement, that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to §215.473, F.S., or engaged in business operations in Cuba or Syria. In the event that federal law ceases to authorize the states to adopt and enforce the contracting prohibition identified herein, this provision shall be null and void.

Discriminatory Vendors: The Recipient shall disclose to the Department if it or any of its affiliates, as defined by §287.134(1)(a), F.S. appears on the discriminatory vendors list. An entity or affiliate placed on the discriminatory vendor list pursuant to §287.134, F.S. may not a) submit a bid, proposal, or reply on a contract or agreement to provide any goods or services to a public entity; b) submit a bid, proposal, or reply on a contract or agreement with a public entity for the construction or repair of a public building or public work; c) submit bids, proposals, or replies on leases of real property to a public entity; d) be awarded or perform work as a contractor, subcontractor, Recipient, supplier, subrecipient, or consultant under a contract or agreement with any public entity; or e) transact business with any public entity.

Reporting Potential Fraud, Waste, Abuse, and Similar Misconduct: The Recipient must promptly refer to the Department of Law Enforcement, Office of Criminal Justice Grants any credible evidence that a principal, employee, agent, contractor, subcontractor, or other person has either 1) submitted a claim for grant funds that violates the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds.

Non-Disclosure Agreements: Restrictions and certifications regarding non- disclosure agreements and related matters Recipients or contracts/subcontracts under this award may not require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits, restricts or purports to prohibit or restrict, the reporting of waste, fraud or abuse in accordance with law, to an investigative or law enforcement representative of a state or federal department or agency authorized to receive such information. The Recipient certifies that if informed or notified of any subrecipient, or contractor/subcontractor has been requiring their employees to execute agreements or statements that prohibit the reporting of fraud, waste, or abuse that it will immediately cease all further obligations of award funds to the entity and will immediately notify the Department. The Recipient will not resume obligations until expressively authorized to do so from the Department.

SECTION V: COMPLIANCE WITH STATUTES, RULES, AND REGULATIONS

In performing its obligations under this agreement, the Recipient shall without exception be aware of and comply with all State and Federal laws, rules and regulations relating to its performance under this agreement as they may be enacted or amended from time-to-time, as well as any court or administrative order, judgment, settlement or compliance agreement involving the Department which by its nature affects the services provided under this agreement. The following are examples of rules and regulations that govern Recipient's performance under this agreement.

Lobbying Prohibited: The Recipient shall comply with the provisions of 11.062 and 216.347, F.S., which prohibit the expenditure of funds for the purpose of lobbying the Legislature, judicial branch, or a State agency. No funds or other resources received from the Department in connection with this agreement may

be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

State of Florida E.O. 20-44: Public-Private Partnerships: Any entity named in statute with which the agency must form a sole-source, public-private agreement; and any nongovernmental Recipient receiving 50% or more of their annual budget from any combination of state or federal funding must submit an annual report to the Office of Criminal Justice Grants. The report must include the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. In addition, the Recipient must agree through appropriate contract or grant agreement amendment to inform the agency of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Recipient.

Civil Rights: The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.) and shall not discriminate against any employee (or applicant for employment) in the performance of this agreement because of race, color, religion, sex, national origin, disability, age, or marital status. These requirements shall apply to all contractors, subcontractors, subgrantees or others with whom it arranges to provide services or benefits to clients or employees in connection with its programs and activities.

E-Verify: The Department shall consider the employment by any contractor of unauthorized aliens a violation of section 274(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this contract. Pursuant to F.S. 448.095, the Contracting Party and any subcontractors are required to register with and use the E-Verify system operated by the U.S. Department of Homeland Security beginning on January 1, 2021. The Contracting Party and any subcontractors are prohibited from entering into contracts with one another unless all parties register and use the E-Verify system. Subcontractors who enter into contracts with the Contracting Party are required to provide a certification that the subcontractor does not employ or use unauthorized aliens as defined in the statute, a copy of which the Contracting Party must maintain. The Contracting Party and any subcontractors are required to terminate a contract if a party has a good faith belief that another party is in violation of F.S. 448.09(1), prohibiting the employment of unauthorized aliens. If a public employer has a good faith belief that the subcontractor has violated these requirements, but that the Contracting Party has otherwise complied, the public employer must notify the Contracting Party to terminate its contract with the subcontractor. A party may challenge a contract termination in accordance with these requirements. A penalized Contractor is prohibited from obtaining another contract with a public employer for at least one year.

Background Check: Whenever a background screening for employment or a background security check is required by law for employment, unless otherwise provided by law, the provisions of Chapter 435 F.S., shall apply. All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of the subsection, security background investigations shall include, but not be limited to, employment history checks, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile record checks through the Florida Department of Law Enforcement, and federal criminal record checks through the Federal Bureau of Investigation, and may include local criminal record checks through local law enforcement agencies.

Public Records: As required by 287.058(1)(c), F.S., the Recipient shall allow public access to all documents, papers, letters, or other public records as defined in 119.011(12), F.S.as prescribed by 119.07(1) F.S., made or received by the Recipient in conjunction with this agreement, except public records which are made confidential by law must be protected from disclosure. It is expressly understood that the Recipient's failure to comply with this provision shall constitute an immediate breach of contract, for which the Department may unilaterally terminate this agreement.

Independent Contractor, Subcontracting and Assignments: In performing its obligations under this agreement, the Recipient shall at all times be acting in the capacity of an independent contractor and not as an officer, employee, or agent of the State of Florida. Neither the Recipient nor any of its agents, employees, subcontractors or assignees shall represent to others that it is an agent of or has the authority to bind the Department by virtue of this agreement, unless specifically authorized in writing to do so.

Timely Payment of Subcontractors: To the extent that a subcontract provides for payment after Recipient's receipt of payment from the Department, the Recipient shall make payments to any subcontractor within 7 working days after receipt of full or partial payments from the Department in accordance with §287.0585, F.S., unless otherwise stated in the agreement between the Recipient and subcontractor. Failure to pay within seven (7) working days will result in a penalty that shall be charged against the Recipient and paid by the Recipient to the subcontractor in the amount of one-half of one percent (.005) of the amount due per day from the expiration of the period allowed for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen (15%) percent of the outstanding balance due.

Notice of Legal Actions: The Recipient shall notify the Department of potential or actual legal actions taken against the Recipient related to services provided through this agreement or that may impact the Recipient's ability to complete the deliverables outlined herein, or that may adversely impact the Department. The Department's Grant Manager will be notified within 10 days of Recipient becoming aware of such actions or potential actions or from the day of the legal filing, whichever comes first.

Property: In accordance with 287.05805, F.S., any State funds provided for the purchase of or improvements to real property are contingent upon the Recipient granting to the State a security interest in the property at least to the amount of the State funds provided for at least five (5) years from the date of purchase or the completion of the improvements or as further required by law.

SECTION VI: RECORDS, AUDITS, AND INFORMATION SECURITY

Records Retention: Retention of all financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this agreement shall be maintained by the Recipient during the term of this agreement and retained for a period of five (5) years after completion of the agreement or longer when required by law. In the event an audit is required under this agreement, records shall be retained for a minimum period of five years after the audit report is issued or until resolution of any audit findings or litigation based on the terms of this agreement, at no additional cost to the Department. Upon demand, at no additional cost to the Department, the Recipient will facilitate the duplication and transfer of any records or documents during the term of this agreement and the required five (5) year retention period. No record may be withheld, nor may the Recipient attempt to limit the scope of any of the foregoing inspections, reviews, copying, transfers or audits based on any claim that any record is exempt from public inspection or is confidential, proprietary or trade secret in nature; provided, however, that this provision does not limit any exemption to public inspection or copying to any such record. These records shall be made available at all reasonable times for inspection, review, copying, or audit by State, or other personnel duly authorized by the Department.

Records Inspection: Pursuant to Section 216.1366, F.S., in order to preserve the interest of the state in the prudent expenditure of state funds, the Department shall be authorized to inspect the (a) Financial records , papers, and documents of the Contractor that are directly related to the performance of the Contract or the expenditure of state funds, and (b) Programmatic records, papers, and documents of the Contractor which the Department determines are necessary to monitor the performance of the Contract or to ensure that the terms of the Contract are being met. The Contractor shall provide such records, papers, and documents requested by the Department within ten (10) business days after the request is made.

Monitoring: The Recipient agrees to comply with the Department's grant monitoring guidelines, protocols, and procedures; and to cooperate with the Department on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, site visits, and/or Florida Department of Financial Services contract reviews and Expanded Audits of Payment (EAP). The Recipient agrees to provide the Department all documentation necessary to complete monitoring of the award and verify expenditures in accordance with 215.971, F.S. Further, the Recipient agrees to abide by reasonable deadlines set by the Department for providing requested documents. Failure to cooperate with grant monitoring activities may result in sanctions affecting the Recipient's award, including, but not limited to: withholding and/or other restrictions on the Recipient's access to funds, and/or referral to the Office of the Inspector General for audit review.

Florida Single Audit Act (FSAA): The Recipient shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by The Office of the Inspector General (§20.055, F.S.). In the event that the Recipient expends a total amount of state financial assistance equal to or in excess of $750,000 in any fiscal year, the Recipient must have a single audit or project-specific audit in accordance with §215.97, F.S. and the applicable rules of the Department of Financial Services and the Auditor General. In determining the state financial assistance expended in its fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Law Enforcement, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements. The schedule of expenditures should disclose the expenditures by contract/agreement number for each contract with the Department in effect during the audit period. All questioned costs and liabilities due the Department shall be fully disclosed in the audit report package with reference to the specific contract number. If the Recipient expends less than $750,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of 215.97, F.S., is not required. In the event that the Recipient expends less than $750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of 215.97, F.S., the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than State entities). Pursuant to 215.97(8), F.S., state agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with §215.97, F.S. In such an event, the state awarding agency must arrange for funding the full cost of such additional audits. Any reports, management letters, or other information required to be submitted to the Department pursuant to this agreement shall be submitted within nine (9) months after the end of the Recipient's fiscal year or within 30 days of the Recipient's receipt of the audit report, whichever occurs first, unless otherwise required by Florida Statutes. Copies of financial reporting packages required by this agreement shall be submitted by or on behalf of the Recipient directly to each of the following:

The Department of Law Enforcement:
Florida Department of Law Enforcement
Office of Criminal Justice Grants
ATTN: State Financial Assistance
Post Office Box 1489 Tallahassee, Florida 32302-1489

The Auditor General's Office at:
Auditor General's Office, Room 401
Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Criminal Justice Information Data Security: Acceptance of this award, constitutes understanding that transmission of Criminal Justice Information (CJI) between locations must be encrypted to conform to the Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy.

Recipient's Confidential and Exempt Information: By executing this agreement, the Recipient acknowledges that any information not marked as "confidential" or "exempt" will be posted by the Department on the public website maintained by the Department of Financial Services pursuant to 215.985, F.S. The Recipient agrees that, upon written request of the Department, it shall promptly provide to the Department a written statement of the basis for the exemption applicable to each provision identified by the Recipient as "confidential" or "exempt", including the statutory citation to an exemption created or afforded by statute, and state with particularity the reasons for the conclusion that the provision is exempt or confidential. Any claim by Recipient of trade secret (proprietary) confidentiality for any information contained in Recipient's documents (reports, deliverables or work papers, etc., in paper or electronic form) submitted to the Department in connection with this agreement cannot be waived, unless the claimed confidential information is submitted in accordance with the following two paragraphs.

The Recipient must clearly label any portion of the documents, data, or records submitted that it considers exempt from public inspection or disclosure pursuant to Florida's Public Records Law as trade secret. The labeling will include a justification citing specific statutes and facts that authorize exemption of the information from public disclosure. If different exemptions are claimed to be applicable to different portions of the protected information, the Recipient shall include information correlating the nature of the claims to the particular protected information.

The Department, when required to comply with a public records request including documents submitted by the Recipient, may require the Recipient to expeditiously submit redacted copies of documents marked as trade secret in accordance with this section. Accompanying the submission shall be an updated version of the justification, correlated specifically to redacted information, either confirming that the statutory and factual basis originally asserted remain unchanged or indicating any changes affecting the basis for the asserted exemption from public inspection or disclosure. The redacted copy must exclude or obliterate only those exact portions that are claimed to be trade secret. If the Recipient fails to promptly submit a redacted copy, the Department is authorized to produce the records sought without any redaction of proprietary or trade secret information.

SECTION VII: PENALTIES, TERMINATION, DISPUTE RESOLUTION, AND LIABILITY

Financial Penalties for Failure to Take Corrective Action: Corrective action plans may be required for noncompliance, nonperformance, or unacceptable performance under this agreement. Penalties may be imposed for failures to implement or to make acceptable progress on such corrective action plans.

Termination: The Department reserves the right to unilaterally cancel this agreement for refusal by the Recipient to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Recipient in conjunction with this agreement, unless the records are exempt pursuant to Article I. Section 24(a), of the Florida Constitution and §119.07(1), F.S. The Department shall be the final authority as to the appropriation, availability and adequacy of funds. In the event the Recipient fails to fully comply with the terms and conditions of this agreement, the Department may terminate the agreement upon written notice. Such notice may be issued without providing an opportunity for cure if it specifies the nature of the noncompliance and states that provision for cure would adversely affect the interests of the State or is not permitted by law or regulation. Otherwise, notice of termination will be issued after the Recipient's failure to fully cure such noncompliance within the time specified in a written notice of noncompliance issued by the Department specifying the nature of the noncompliance and the actions required to cure such noncompliance. In addition, the Department may employ the default provisions in Rule 60A-1.006(3), F.A.C., but is not required to do so in order to terminate the agreement. The Department's failure to demand performance of any provision of this agreement shall not be deemed a waiver of such performance. The Department's waiver of any one breach of any provision of this agreement shall not be deemed to be a waiver of any other breach and neither event shall be construed to be a modification of the terms and conditions of this agreement. The provisions herein do not limit the Department's right to remedies at law or in equity. The validity of this agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this agreement, in any subsequent submission or response to Department request, or in any

submission or response to fulfill the requirements of this agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Recipient, cause the termination of this agreement and the release of the Department from all its obligations to the Recipient. This agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this agreement shall lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this agreement. No waiver by the Department of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of the Department hereunder, or affect the subsequent exercise of the same right or remedy by the Department for any further or subsequent default by the Recipient. Any power of approval or disapproval granted to the Department under the terms of this agreement shall survive the terms and life of this agreement as a whole. The agreement may be executed in any number of counterparts, any one of which may be taken as an original. In the event of termination, the Recipient will be compensated for any work satisfactorily completed through the date of termination or an earlier date of suspension of work.

Disputes and Appeals: The Department shall make its decision in writing when responding to any disputes, disagreements, or questions of fact arising under this agreement and shall distribute its response to all concerned parties. The Recipient shall proceed diligently with the performance of this agreement according to the Department's decision. If the Recipient appeals the Department's decision, the appeal also shall be made in writing within twenty-one (21) calendar days to the Department's clerk (agency clerk). The Recipient's right to appeal the Department's decision is contained in Chapter 120, F.S., and in procedures set forth in Fla. Admin. Code R.28-106.104. Failure to appeal within this time frame constitutes a waiver of proceedings under Chapter 120, F.S. After receipt of a petition for alternative dispute resolution the Department and the Recipient shall attempt to amicably resolve the dispute through negotiations. Timely delivery of a petition for alternative dispute resolution and completion of the negotiation process shall be a condition precedent to any legal action by the Recipient concerning this agreement.

Liability: Unless the Recipient is a state agency or subdivision, the Recipient shall be solely responsible to parties with whom it shall deal in carrying out the terms of this agreement, and shall save the Department harmless against all claims of whatever nature by third parties arising out of the performance of work under this agreement. For purposes of this agreement, Recipient agrees that it is not an employee or agent of the Department, but is an independent contractor. Nothing herein shall be construed as consent by a state agency of the State of Florida to be sued by third parties in any matter arising out of any contract. Nothing shall be construed affect in any way the Recipient rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in 768.28, F.S.

State Financial Assistance
Drone Replacement Program
Compliant Drone Cash Advance Request (Option 2)

Award #: 3X111 **Request #:** CA01

Recipient: Winter Haven Police Department

INSTRUCTIONS: Recipients are required to use the funds for the relinquished drones to purchase a drone that is in compliance with Rule 60GG-2.0075, Florida Administrative Code. In order to receive an advance for the relinquished drone, the Recipient must complete the following information for the compliant drone(s) to be purchased.

Manufacturer and Model	Quantity	Unit Price	Shipping/Tax	Purchase Order #	Total
Axon Air - Skydio X10	3	$ 24,999.97	$ 0.00		$ 74,999.91
					$ 0.00
					$ 0.00
					$ 0.00
				Total:	**$ 74,999.91**

By signing below I certify the drones above are compliant with all provisions outline in Rule 60GG-2.0075, Florida Administrative Code.

I acknowledge my agency must provide proof of purchase documentation (invoice, cancelled check/card statements) for the drones above within 45 days from the receipt of the advanced funds. Failure to do so will result in a refund to FDLE in the amount of the approved cash advance.

I also certify the following documents are attached to document the purchase of each drone listed above:

☐ Valid, Current Purchase Order

☐ Vendor Quote

Chief Official Signature _____ **Title** _____ **Date** _____

******FDLE USE ONLY: This section is completed after Cash Advance is approved and paid******

Date Cash Advance Paid: _____ Deadline for Proof of Purchase (45 days): _____

The following documentation was provided by the Recipient on _____ to reconcile this cash advance:

☐ Invoice

☐ Proof of Payment (cancelled check, bank/card statement, etc.)

I certify the Recipient provided all documentation to reconcile their advanced funds for the Drone Replacement Program.

_____ _____

SFA GAII Signature Date

_____ _____

OCJG Authorized Official Date

WINTER HAVEN
The Chain of Lakes City

Office of Procurement

SOLE SOURCE

CERTIFICATE OF CONDITIONS AND CIRCUMSTANCES

Instructions: The purpose of this form is to certify conditions and circumstances for the purchase of goods and services under the single source exception to the competitive bid process. This request is to be executed by the Department Director and submitted to the Procurement Manager for consideration.

Items or services required: Purchase of three Skydio X10 drones from Axon to replace the Police Depart--ment's current three drones, which are no longer allowed to be utilized due to being from the unapproved manufacturer DJI (FSS 934.50).

Name of company considered a Sole Source: Axon Enterprise, Inc.

List the conditions and circumstances that require this to be a Sole Source purchase. Do we currently use these products / services? Be specific:

Axon Enterprises, Inc. utilizes two non-tethered drone manufacturers in its Axon Air System and Eviden--ce Data Management System. Those manufactureres are DJI and Skydio. Of those two, Skydio is the only approved manufacturer listed with the Florida Department of Management Services. We currently utilize Axon's Evidence Data Management System for our body camera footage and digital evidence.

Proper documentation for verification of Sole Source must be attached.

Department Director's signature: [signature] **Date requested:** 9-5-24

****

Procurement action/findings: Meets the Sole Source criteria. APPROVED

Procurement Manager's signature: Bethany Owen **Date:** 9/30/2024

Per Florida Statute 838.22(2) It is unlawful for a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another by circumventing a competitive solicitation process required by law or rule through the use of a sole-source contract for commodities or services.

17800 N 85TH STREET
SCOTTSDALE, ARIZONA 85255

AXON.COM

8/29/2024

To: Winter Haven PD (FL)

Re: Sole Source Letter for Axon Enterprise, Inc.'s Axon brand products and Axon Evidence (Evidence.com) Data Management Solutions[1] and Skydio Drones

A sole source justification exists because the following goods and services required to satisfy the agency's needs are only available by Axon Enterprise's Axon Air application and the Skydio drones, and are only available for purchase through the authorized distributor listed below.

Axon Digital Evidence Solution Description

Axon Air System

- Purpose-built solution for law enforcement UAV programs
- Supported applications on iOS and Android
- Automated tracking of pilot, aircraft, and flight logs
- Unlimited Storage of UAV data in Axon Evidence (Evidence.com)
- In application ingestion of data in Axon Evidence (Evidence.com)
- Axon Aware integration for live streaming and situational awareness
- Compatible with most drones used in public safety
- High-bandwidth wireless data transfer
- Live streaming with the Axon View application
- Axon takes control of the streaming information after it starts
- Criminal Justice Information Services (CJIS) data compliance
- Axon Air live stream is viewed through the Axon Respond operations platform
- Axon Air is the only application for viewing streaming with Axon Respond
- Any smart device can be used to view live streaming via the Axon Evidence ecosystem

Axon Evidence Data Management System

- Software as a Service (SaaS) delivery model that allows agencies to manage and share digital evidence without local storage infrastructure or software needed
- SaaS model reduces security and administration by local IT staff: no local installation required
- Automatic, timely security upgrades and enhancements deployed to application without the need for any local IT staff involvement
- Securely share digital evidence with other agencies or prosecutors without creating copies or requiring the data to leave your agency's domain of control
- Controlled access to evidence based on pre-defined roles and permissions and pre-defined individuals
- Password authentication includes customizable security parameters: customizable password complexity, IP-based access restrictions, and multi-factor authentication support
- Automated category-based evidence retention policies assists with efficient database management

[1] Axon is also the sole developer and offeror of the Evidence.com data management services. Evidence.com is both a division of Axon and a data management product solution offered by Axon. Evidence.com is not a separate corporate entity.

17800 N 85TH STREET
SCOTTSDALE, ARIZONA 85255

AXON.COM

- Ability to recover deleted evidence within seven days of deletion
- Stores and supports all major digital file types: .mpeg, .doc, .pdf, .jpeg, etc.
- Requires NO proprietary file formats
- Ability to upload files directly from the computer to Axon Evidence via an Internet browser
- Data Security: Robust Transport Layer Security (TLS) implementation for data in transit and 256-bit AES encryption for data in storage
- Security Testing: Independent security firms perform in-depth security and penetration testing
- Reliability: Fault- and disaster-tolerant infrastructure in at least 4 redundant data centers in both the East and West regions of the United States
- Chain-of-Custody: Audit logs automatically track all system and user activity. These logs cannot be edited or deleted, even by account administrators and IT staff
- Protection: With no on-site application, critical evidence stored in Axon Evidence is protected from local malware that may penetrate agency infrastructure
- Stability: Axon Enterprise is a publicly traded company with stable finances and funding, reducing concerns of loss of application support or commercial viability
- Application and data protected by a CJIS and ISO 27001 compliant information security program
- Dedicated information security department that protects Axon Evidence and data with security monitoring, centralized event log analysis and correlation, advanced threat and intrusion protection, and incident response capabilities
- Redact videos easily within the system, create tags, markers and clips, search 7 fields in addition to 5 category-based fields, create cases for multiple evidence files

SOLE AUTHORIZED DISTRIBUTOR FOR AXON BRAND PRODUCTS	SOLE AUTHORIZED REPAIR FACILITY FOR AXON BRAND PRODUCTS
Axon Enterprise, Inc. **17800 N. 85th Street, Scottsdale, AZ 85255** **Phone: 480-905-2000 or 800-978-2737** **Fax: 480-991-0791**	**Axon Enterprise, Inc.** **17800 N. 85th Street, Scottsdale, AZ 85255** **Phone: 480-905-2000 or 800-978-2737** **Fax: 480-991-0791**

Please contact your local Axon sales representative or call us at 1-800-978-2737 with any questions.

Sincerely,

Josh Isner
Chief Revenue Officer
Axon Enterprise, Inc.

Android is a trademark of Google, Inc., Skydio is a trademark of Skydio, Inc., iOS is a trademark of Cisco, and ISO is a trademark of the International Organization for Standardization and.

AXON, Axon, Axon Air, and Axon Evidence are trademarks of Axon Enterprise, Inc., some of which are registered in the US and other countries. For more information, visit www.axon.com/legal. All rights reserved. © 2022 Axon Enterprise, Inc.

Department of MANAGEMENT SERVICES

Menu

ARCHIVE Approved Drone Manufacturers

ARCHIVED APRIL 5, 2023 - PLEASE REFER TO RULE 60GG-2.0075, F.A.C.

In accordance with section 934.50, Florida Statutes, as of January 1, 2022, a governmental agency (as defined in section 934.50, Florida Statutes) may only purchase or otherwise acquire a drone from a manufacturer on the approved list. Governmental agencies may continue to utilize drones not on the department's approved list until January 1, 2023.

Pursuant to section 934.50(7)(b), Florida Statutes, the department hereby provides the following list of approved manufacturers whose drones may be purchased or otherwise acquired and used by a governmental agency under section 934.50, Florida Statutes:

- Skydio
- Parrot

- Altavian
- Teal Drones
- Vantage Robotics

This list provides approved manufacturers but does not guarantee that all models produced by these manufacturers meet an individual governmental agency's specific needs or security requirements. Beginning July 1, 2022, all governmental agencies using drones not on the department's approved list must submit a comprehensive plan for discontinuing their use to the department. The Comprehensive Plan to Discontinue the Use of Unapproved Drones (PUR 6074) may be found on the State Purchasing (PUR) Forms webpage.

Please monitor this website and the Florida Administrative Register for updates related to the department's obligations under section 934.50(7), Florida Statutes.

Approved Drone Manufacturers

ARCHIVE
Approved
Drone
Manufacturers

60GG-2.0075 Unmanned Aerial Systems (UAS) Minimum Security Requirements.

(1) Definitions.

(a) "Critical Component" means a Drone component related to: flight controllers, radio, data transmission devices, cameras, gimbals, ground control systems, operating software (including cell phone or tablet applications, but not cell phone or tablet operating systems), network connectivity, or data storage. Critical Components do not include, for example, passive electronics such as resistors, and non-data transmitting motors, batteries, and wiring.

(b) "Data" means any electronic information of a Governmental Agency that is a public record, as defined in Section 119.011(12), F.S.

(c) "Drone" has the same meaning as provided in Section 934.50(2)(a), F.S.

(d) "Florida College System Institution" has the same meaning as provided in Section 1000.21(3), F.S.

(e) "Foreign Country of Concern" has the same meaning as provided in Section 286.101(1)(b), F.S.

(f) "Governmental Agency" has the same meaning as provided in Section 934.50(7)(a)2., F.S.

(g) "Instructional Technology" means an interactive device used by a School that assists in instructing a class or a group of students and includes the necessary hardware and software to operate the interactive device. The term also includes support systems in which an interactive device may mount and is not required to be affixed to the facilities.

(h) "Open Data" means Data that is structured in a way that enables the Data to be fully discoverable and usable by the public. The term does not include Data that are restricted from public disclosure based on federal or state laws and regulations, including, but not limited to, those related to privacy, confidentiality, security, personal health, business or trade secret information, and exemptions from state public records laws; or Data for which a Governmental Agency is statutorily authorized to assess a fee for its distribution.

(i) "Research and Accountability Purposes" means Drone use by a Florida College System Institution or a State University in direct support of research on Drone hardware, operating systems, software, communications systems and protocols, components, and data practices for the purpose of understanding the existence and extent of potential threats and vulnerabilities, and mitigations thereto. This research must be conducted at the direction of a state of Florida agency or a federal agency, or a party contracted by a state of Florida agency or a federal agency to conduct the research.

(j) "School" has the same meaning as provided in Section 1003.01(2), F.S.

(k) "State University" has the same meaning as provided in Section 1000.21(6), F.S.

(2) Approved Manufacturers. A Governmental Agency may only use a Drone from a manufacturer that meets the minimum security requirements specified in this rule. A manufacturer that meets such requirements is deemed an approved manufacturer for the given tier as specified in subsection (3). Notwithstanding a manufacturer's designation as an approved manufacturer, the Governmental Agency is still required to ensure that the Drone it intends to use complies with all applicable provisions of this rule.

(3) Tiers.

Tiers and Exceptions	Description	Applicable Minimum Security Requirements
Tier One	A Drone that does not collect, transmit, or receive Data during flight. Examples of such Drones include Drones that navigate along pre-programmed waypoints and tethered Drones. A Drone used by a School exclusively as Instructional Technology shall be classified as Tier One Drone use.	Subsection (4), Foreign Countries of Concern; subsection (5), Standard Precautions.
Tier Two	A Drone that may collect, transmit, or receive only flight control Data, excluding visual and auditory Data.	Subsection (4), Foreign Countries of Concern; subsection (5), Standard Precautions; subsection (6), Tier Two.
Tier Three	A Drone that may collect, transmit, or receive any Data, including visual and auditory Data.	Subsection (4), Foreign Countries of Concern; subsection (5), Standard Precautions; subsection (6), Tier Two; subsection (7), Tier Three.
Research and Accountability Purposes Exception	Drones used for Research and Accountability Purposes are exempt from the requirements in subsection (4), (6), and (7). If using otherwise prohibited Drones for Research and Accountability	Subsection (5), Standard Precautions.

	Purposes, the Governmental Agency should weigh the goals of the research against the risk to networks and Data. A Governmental Agency using otherwise prohibited Drones under this exception must provide written notice to the Department of such use via email to drones@dms.fl.gov no later than 30 days prior to utilizing the exception. Such notice must state the intended purpose, participants, and ultimate beneficiaries of the research. To the extent allowable by law and existing agreement between the parties to the research, the State University or Florida College System Institution conducting research under this exception must, upon request of the Department, provide access to the research findings.	

(4) Foreign Countries of Concern. A Governmental Agency may not purchase, acquire, or otherwise use a Drone or any related services or equipment produced by a manufacturer domiciled in, or produced by a manufacturer the Governmental Agency reasonably believes to be owned or controlled (in whole or in part) by, a Foreign Country of Concern.

(5) Standard Precautions. A Drone or its software in use by a Governmental Agency:

(a) Shall only connect to the internet for purposes of command and control, coordination, or other communication to ground control stations or systems related to the mission of the Drone. If connecting to the internet under this paragraph, a Governmental Agency shall:

1. Require the command and control, coordination, or other ground control stations or systems to be secured and monitored; or

2. Require the command and control, coordination, or other ground control stations or systems to be isolated from networks where the Data of a Governmental Agency is held (e.g., air-gapping).

(b) Shall only connect to a computer or the network of a Governmental Agency if:

1. A Drone or its software is isolated in a way that prevents access to the internet and any network where the Data of a Governmental Agency is held;

2. A Drone or its software uses removable memory to connect to a computer or network that is isolated in a way that prevents access to any network where the Data of a Governmental Agency is held; and

3. Any transfer of Data between an isolated network described in subparagraphs 1. and 2. and a network where the Data of a Governmental Agency is held requires:

a. an initial scan using antivirus or anti-malware software for malicious code on the computer that connected directly or indirectly to the Drone;

b. the use of antivirus and anti-malware software during Data transfer; and

c. a scan of the destination of the transferred Data using antivirus or anti-malware software for malicious code.

(c) Shall not connect with a telephone, tablet, or other mobile device issued by a Governmental Agency or that connects to a Governmental Agency network. Governmental Agency devices that are solely used for the command and control, coordination, or other communication to ground control stations or systems related to the mission of the of Drones that do not connect to the Governmental Agency's network may be used.

(d) Shall be used in compliance with all other applicable Data standards as required by law and the Governmental Agency's own policy and procedure.

(6) Tier Two. A Drone or any related services or equipment used in accordance with Tier Two must, in addition to the requirements in paragraphs (4) and (5), meet the following minimum security requirements:

(a) Regardless of whether the Governmental Agency is an "agency" as defined in Rule 60GG-2.001, F.A.C., the Governmental Agency must comply with the portions of Rules 60GG-2.002, 60GG-2.003, and 60GG-2.004, F.A.C., that would by their nature be applicable to Drone use, its software, or any related services or interacting with any Data originating from the Drone or its use.

(b) All communication to and from a Drone shall utilize a Federal Information Process Standard (FIPS) 140-2 compliant encryption algorithm.

(c) Critical Components may not be produced by a manufacturer domiciled in, or produced by a manufacturer the Governmental Agency reasonably believes to be owned, controlled by, or otherwise connected to, a Foreign Country of Concern.

(7) Tier Three. A Drone or any related services or equipment used in accordance with Tier Three must, in addition to the requirements in subsections (4), (5), and (6), meet the following minimum security requirements:

(a) Data storage must be restricted to the geographic location of the continental United States. Remote access to Data storage, other than Open Data, from outside the continental United States, is prohibited unless approved in writing by the Governmental Agency head or designee.

Rulemaking Authority 934.50 FS. Law Implemented 934.50 FS. History–New 4-5-23.

DATE: December 3, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Charlie Bird, Assistant City Manager – Public Safety
Joseph "Sonny" Emery, Fire Chief

SUBJECT: Access Easement Agreement / 4750 Lucerne Park Road (SR 544)

BACKGROUND

The City of Winter Haven and TM Storage Winter Haven, LLC, wish to enter into an Access Easement Agreement. The City is the fee simple owner of real property which comprises Parcel 1 upon which it currently operates its Fire Station 2.

TM Storage Winter Haven, LLC is the fee simple owner of real property adjacent to Parcel 1, upon which it constructed a commercial self-storage facility and referred to as Parcel 2.

TM Storage Winter Haven, LLC's predecessor in title to Parcel 2 by instrument dated October 15, 1998, and recorded in Official Records Book 4119, Page 1986, of the public records of Polk County, Florida, granted to the City a perpetual public easement (Existing Easement) over a portion of Parcel 2 for the construction, maintenance, and restoration of utilities and roads. The City subsequently permitted through FDOT and constructed an access roadway for ingress and egress from Lucerne Park Road (SR 544) over Parcel 1 as well as over a portion of Parcel 2 within a portion of the Existing Easement (Roadway).

TM Storage Winter Haven, LLC desires to now establish its right to use the said portion of the Roadway that is constructed on Parcel 1 in perpetuity for the benefit of the improvements made by TM Storage Winter Haven, LLC upon Parcel 2 relating to the self-storage facility (Storage Business). The Roadway that exists on the Existing Easement and the lands that are the subject of the proposed Access Easement Agreement allows two-way vehicular and pedestrian traffic between the public right-of-way from SR 544 to and from Parcel 1 and Parcel 2.

By entering into the Access Easement Agreement, the City will grant, and TM Storage Winter Haven, LLC will accept an easement for ingress and egress over that portion of Parcel 1 as more particularly described in Exhibit C to the Access Easement Agreement. The Roadway access for ingress and egress

shall be kept open at all times, and there shall be no stopping, standing or parking allowed in the Roadway by either the City or TM Storage Winter Haven, LLC (except in emergency situations where unavoidable) at any time that would interfere and/or impede the operation of the Fire Station on and/or from Parcel 1 and the operation of TM Storage Winter Haven, LLC's Storage Business on Parcel 2.

The City shall be responsible for the maintenance and repair of the Roadway that exists on the Existing Easement and new Easement at its sole cost and expense. The improvements made by TM Storage Winter Haven, LLC on Parcel 2 to connect the existing Roadway on the Existing Easement shall be maintained by TM Storage Winter Haven, LLC in good order, condition and repair. If either Party causes damage then that Party shall be responsible for the cost of repairing such damage. If any maintenance and repair of the Roadway beyond the Maintenance Requirement as more specifically defined in the Access Easement Agreement of the City is necessary due to the use by TM Storage Winter Haven, LLC and/or its invitees, licensees, agents, customers, employees, and tenants, as determined solely by the City in its reasonable discretion, then TM Storage Winter Haven, LLC shall be responsible for payment of same.

Mutual indemnification and hold harmless provisions are included within the proposed Access Easement Agreement.

The Access Easement Agreement has been reviewed and approved by the City Attorney.

FINANCIAL IMPACT

There is no financial impact with this request.

STRATEGIC PLAN ALIGNMENT

- This request is a routine item. It is not specifically defined as a goal or strategy within the Strategic Plan. However, it is aligned with the Economic Sustainability Pillar.

RECOMMENDATION

City staff recommends that the City Commission approve the Access Easement Agreement and authorize the Mayor and other appropriate City officials to execute same and authorize the City Manager and/or his designee to take all other necessary actions related thereto.

ATTACHMENT

- Access Easement Agreement with Exhibits A, B, and C

This Instrument Prepared By and Return to:
ALLAN L. CASEY, ESQUIRE
Post Office Box 7146
Winter Haven, Florida 33883-7146
G-4372

Parcel Identification Number(s): 26-28-03-522501-000140
26-28-03-522500-003071

ACCESS EASEMENT AGREEMENT

THIS ACCESS EASEMENT AGREEMENT (the "**Agreement**") is made and entered into this ___day of _____, 2024 (the "**Effective Date**") by the **CITY OF WINTER HAVEN**, a Florida municipal corporation ("Grantor"), in favor of [**TM STORAGE WINTER HAVEN**, LLC], a Florida limited liability company (Grantee).

R E C I T A L S:

A. Grantor is the fee simple owner of certain real property located in Polk County, Florida, as more particularly described in Exhibit A attached hereto and incorporated herein by reference ("Parcel 1") upon which Grantor currently operates its Fire Station 2.

B. Grantee is the fee simple owner of certain real property located in Polk County, Florida adjacent to Parcel 1, as more particularly described in Exhibit B attached hereto and incorporated herein by reference upon which is constructed a commercial self-storage facility (**Storage Business**) ("Parcel 2," and collectively with Parcel 1, the "Parcels").

C. Grantee's predecessor in title to Parcel 2 by instrument dated October 15, 1998 and recorded in O.R. Book 4119 Page 1986, public records of Polk County, Florida, granted to Grantors a perpetual public easement (**Existing Easement**) over a portion of Parcel 2 for the construction, maintenance, and restoration of utilities and roads.

D. In accordance with the terms of the Existing Easement Grantor subsequently constructed a roadway for ingress and egress (**Roadway**) over Parcel 1 and over a portion of Parcel 2 (**Existing Easement**) and the parties now desire to legally establish Grantee's right to use said Roadway in perpetuity for the benefit of the improvements made by Grantee upon Parcel 2.

E. By this Agreement, Grantor desires to grant, and Grantee desires to accept, an easement for ingress and egress over that portion of Parcel 1 as more particularly described in **Exhibit C** attached hereto and incorporated herein by reference ("**Easement Area**"), and the parties desire to establish respective rights and obligations in connection therewith.

NOW, THEREFORE, for the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Recitals**. The above recitals are true and correct and are incorporated by reference as if fully set forth herein.

2. **Grant of Easement**. Grantor hereby declares, grants, establishes, covenants and agrees that Parcel 1 shall be burdened and Parcel 2 shall be benefitted by a perpetual non-exclusive easement for the benefit of Parcel 2, Grantee, and Grantee's invitees, licensees, agents, customers, employees, and tenants, for access, ingress and egress for passage by all forms of vehicular and pedestrian traffic, by, on, over and across the Easement Area (the "**Easement**"). In the event that such access for ingress and egress unduly interferes with and/or impedes Grantor's operation of the Fire Station and the important health, safety and welfare activities that require Grantor's free and unimpeded access at all times on a 24 hour/7 day a week basis in order to respond to and deliver all public safety services in a timely, safe and expeditious manner as determined within Grantor's sole and absolute reasonable discretion, Grantor shall have the rights and remedies set forth in Section 4 below.

3. **Improvements Rights and Obligations**. The Easement shall be governed by the following terms and conditions:

(a) Construction. The parties acknowledge that Grantee has constructed at its expense certain access improvements on Parcel 2 to connect to the Roadway that currently exists on the **Existing Easement** and Grantor approves of said improvements as constructed. The parties further acknowledge that Grantor constructed the present Roadway that exists on the **Existing Easement** and the **Easement** which allows two-way vehicular and pedestrian traffic between the public right –of –way on Lucerne Park Road, Parcel 1 and Parcel 2.

(b) Maintenance and Repair. The Roadway that exists on the **Existing Easement** and **Easement** shall be maintained in good order, condition, and repair by Grantor at Grantor's sole cost and expense (**Maintenance Requirement**). The foregoing maintenance shall include but not be limited to (i) keeping the Roadway free and clear of all trash, litter, and debris at all times; (ii) the repair (including pot holes) and replacement or restoration of the paved areas; and (iii) compliance with applicable state, county, and municipal codes. The improvements made by Grantee on **Parcel 2** to connect to the existing Roadway on the Existing Easement shall be maintained by Grantee in good order, condition and repair. Provided, however, if a Party causes damage to any portion of the Roadway, then the Party that caused the damage shall be responsible for the cost of repairing such damage. In addition, if any maintenance and repair of the Roadway beyond the Maintenance Requirement of Grantor set forth above in this paragraph is necessary due to use by Grantee and/or its invitees, licensees, agents, customers, employees, and tenants, as determined solely by Grantor in its reasonable discretions, then Grantee shall be responsible for payment of same.

(c) Scope of Use. **The Easement** granted herein is intended to allow for the free passage of all forms of vehicular and pedestrian traffic by Grantee and Grantee's invitees, licensees, agents, customers, employees, and tenants, including in connection with Parcel 2's use as a commercial self-storage facility. The Easement shall be kept open at all times, and there

shall be no stopping, standing or parking allowed in the Easement by either Grantor or Grantee (except in emergency situations where unavoidable) at any time that would interfere and/or impede the operation of the Fire Station on and/or from Parcel 1 and the operation of Grantee's Storage Business on Parcel 2 as determined within the reasonable discretion of Grantor or Grantee.

(d) Impediments; Alteration and Relocation. No fencing, walls, barriers, trees, or shrubbery, or other improvements shall be permitted or allowed within the **Existing Easement** or **Easement** if such improvements create an impediment to the use and enjoyment of the easements and rights granted herein. No material alteration or relocation of the present Roadway that exists on the **Existing Easement** and **Easement** shall be made without the prior written consent of Grantor and Grantee (such consent not to be unreasonably withheld, conditioned, or delayed). Provided further both Grantor and Grantee agree that they shall answer and satisfy to each others reasonable satisfaction any and all complaints relative to the use of the **Existing Easement** and the **Easement**.

(e) Safety Modifications. So as to avoid any potential interference and/or impeding of Grantor's present or future use of Parcel 1 by the use of the Easement, Grantor may implement Safety Modifications (as hereinafter defined) with respect to the Roadway, which Safety Modifications the cost of which shall be equally shared by Grantor and Grantee. "**Safety Modifications**" shall be defined as modifications to the Roadway in order to preserve free and unimpeded access between the Fire Station and Lucerne Park Road at all times on a 24 hour/7 days a week basis in order to allow the Fire Station to respond to and deliver all public safety services in a timely, safe and expeditious manner (including but not limited to painting and striping, signage, and creation of a wider grass pull-off area adjacent to the Roadway), which modifications shall be implemented in a manner so as not to materially adversely restrict access to Parcel 2. Such Safety Modifications shall also be made in accordance with standards and time lines as determined within Grantor's sole and absolute reasonable discretion. Towards that end, the Grantor and Grantee and all successors and permitted assigns agree to work in good faith and cooperatively so as to implement and adhere to all Grantor required Safety Modifications. Grantor agrees to consider making any reasonable Safety Modifications suggested by Grantee with respect to the Roadway.

(f) Limitation of Liability.

(1) Expressly subject to the limitations of liability set forth in §768.28, Fla. Stat. (2024), Grantee hereby expressly understands, covenants and agrees (a) that nothing contained in this Agreement is intended to or shall increase Grantor's liability for personal injury or death or for any property damage, (b) that Grantor does not assume any such additional liability, (c) that Grantor assumes no liability arising out of the utilization and occupancy of the Easement over Parcel 1 by Grantee or Grantee's employees, agents, contractors, invitees, or any representative, (d) that liability arising out of the utilization and occupancy of the Easement over Parcel 1 by Grantee and Grantee's employees, agents, contractors, invitees, or any representative, is hereby assumed by Grantee and shall be at the sole and exclusive risk of

Grantee, (e) that Grantee shall answer and satisfy to Grantor's reasonable satisfaction any and all complaints relative to the use of the Easement created herein over Parcel 1 (pursuant to implementing Safety Modifications and/or other reasonable steps that do not materially adversely restrict access to Parcel 2), (f) that Grantee agrees for itself, its invitees, employees, guests, agents and contractor's that it shall protect, defend, hold harmless, and indemnify Grantor, its elected and appointed officials, officers, employees, representatives, agents and contractors from and against any and all actions, claims, damages, and/or loss, including costs and attorney's fees, occasioned by or resulting from use of the Easement by Grantee or its contractors, agents, employees, guests, or invitees, and (g) that Grantee covenants not to interfere with Grantor's existing and future operation of the Fire Station on Parcel 1 in any manner whatsoever. Other than up to the specific limitations as to liability set forth in §768.28 Florida Statutes (2024), nothing contained herein shall constitute or act as a waiver of Grantor's sovereign immunity under Florida law regardless of whether based in tort, contract, statute, strict liability, and negligence, product liability or otherwise.

(2) Subject to the express limitations of liability set forth in §768.28 Florida Statute (2024) Grantor agrees for itself, its invitees, employees, guests, agents and contractor's that it shall protect, defend, hold harmless and indemnify, Grantee, its officers, directors, owners, and successors in interest from and against any and all actions, claims, damages, and/or loss, including costs and attorney's fees occasioned by or resulting from Grantor or its invitees, employees, guests, agents and contractor's use of the Easement over Parcel 2. Grantor and Grantee expressly understand and agree that nothing contained in this subparagraph (f) shall be construed to benefit or apply to any third party who by use of the Easement have caused or given rise to any actions, claims, damages and/or loss, including reasonable costs and attorney's fees which may be incurred in connection with such action, claim, damage or loss. It being understood and agreed that the provisions contained in this paragraph are for the exclusive benefit of Grantor and/or Grantee and no other person or party. Provided further by giving any indemnification and/or hold harmless herein Grantor does not intend to waive its sovereign immunity and/or the limits of its liability set forth in Section 768.28 of the Florida Statutes (2024) regardless of whether any such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise.

(g) Each party shall be responsible for clean-up of any and all of its spills which may occur within the **Easement**. If a spill occurs, Grantor or Grantee, as the case may be, shall immediately report the nature and extent of the spill to the other party's representatives at the addresses set forth hereinafter in paragraph 5(q).

(h) Grantee agrees that the **Easement** granted herein shall not be used to satisfy wetland mitigation requirements.

(i) No parking or storage shall occur within the **Existing Easement** or the **Easement** and same shall be strictly prohibited. All parked vehicles within the **Existing Easement** or the **Easement** granted herein may be immediately removed by Grantor or Grantee and such removal shall be at the sole cost and expense of the respective owners of said vehicles.

(j) The Grantee agrees that no lakes, ponds or retention and detention facilities shall be allowed within the Easement granted herein.

4. **Remedies**.

(a) In the event that Grantor or Grantee (each, an "Owner") believes that the other party is in violation or breach of this Agreement, such Owner shall provide written notice to the other Owner stating the nature of the alleged violation or breach, and providing said Owner an opportunity to cure said breach or violation, before initiating any legal action or proceeding to address or remedy the same other than a breach which Grantor, in its sole and absolute discretion, determines impacts and/or adversely affects the health, safety and welfare of the citizens, residents and businesses that it serves with public safety services to and/or from Parcel 1 (Public Health, Safety, and Welfare Breach) in which event the Grantor may seek immediate legal action or proceeding to address or remedy the same. In the event of a breach by either party of any of the terms, covenants, restrictions or conditions of this Agreement, either party shall be entitled forthwith to full and adequate relief by all available legal and equitable remedies from the consequences of such breach, including payment of any amounts actually incurred, specific performance and injunctive relief. In addition to all other remedies available at law or in equity, upon the failure of Grantee to cure a breach of this Agreement within ten (10) calendar days following written notice thereof by Grantor, or immediately if a Public Health, Safety and Welfare Breach, Grantor shall have the right to perform such obligation contained in this Agreement on behalf of Grantee and be reimbursed by Grantee upon written demand for the reasonable costs thereof (which such written demand shall include reasonable backup documentation and the manner and time frame for such reimbursement). Notwithstanding the foregoing, in the event (i) of an emergency or to prevent damage to persons or property or (ii) blockage or material impairment of Grantor's reserved rights under this Agreement all as determined within Grantor's sole and absolute reasonable discretion, Grantor may immediately cure the same and shall be reimbursed by Grantee upon written demand for the reasonable cost thereof which written demand shall state the manner and time frame for such reimbursement.

(b) If any Owner believes that a responsible Owner is in violation or breach of the responsible Owner's maintenance obligations set forth herein, then said Owner, upon thirty (30) days advance written notice (except in the case of an emergency, for which no advance written notice shall be required, but written notice shall be sent after such emergency action) to the responsible Owner (after which period of time the responsible Owner has not performed, or commenced to perform, the applicable maintenance, or delivered a writing to the other Owner disputing in good faith the existence of such violation or breach) shall have the right to perform such maintenance, and the responsible Owner shall reimburse the performing Owner for the reasonable costs and expenses incurred, said reimbursement to be made within ten (10) business days of receiving a final itemized invoice for the same.

(c) Any remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity. No breach hereunder shall entitle any owner to cancel, rescind, or otherwise terminate this Agreement.

5. **Miscellaneous Provisions**.

(a) Successors and Assigns. All easements, restrictions, covenants, and agreements granted herein shall run with and be appurtenant to the lands described herein and shall run with said lands forever and be binding upon and inure to the benefit of, and be enforceable by the heirs, legal representatives, successors and assigns of the parties hereto. Any reference to Grantor or Grantee, herein, unless specified otherwise, also refers to their respective heirs, legal representatives, successors and assigns.

(b) Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties relating to the subject matter hereof and may not be amended, waived or discharged except by an instrument in writing executed by the party against which the enforcement of such amendment, waiver or discharge is sought.

(c) Covenants Running With the Land. These easements, restrictions, covenants, and agreements granted herein shall be covenants running with the land (both as to burdens and benefits) and create equitable servitudes in favor of the land benefited thereby, and shall be binding upon and inure to the benefit of all parties with an interest therein and their respective successors and assigns.

(d) Term. The easements, covenants, conditions, and restrictions contained in this Agreement shall be effective commencing on the date of recordation of this Agreement in the public records of Polk County, Florida and shall remain in full force and effect thereafter in perpetuity, unless this Agreement is modified, amended, canceled, or terminated by the written consent of all then record owners of the Parcels.

(e) Priority. This Agreement shall be superior to any mortgage or other security/collateral interest granted by Grantor or Grantee.

(f) Partial Invalidity. If any term of this Agreement shall be deemed to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(g) Waiver. No waiver of any breach of any covenant or provision contained herein shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision contained herein.

(h) Governing Law. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted in accordance with the laws of the State of Florida without regard to any conflicts of law provisions.

(i) Construction. The parties to this Agreement and their respective advisors believe that this Agreement is the product of their efforts, that it expresses their agreement and that it should not be interpreted in favor of or against any one party.

(j) Attorney's Fees and Costs. In the event it shall be necessary for the parties to bring suit to interpret or enforce this Agreement, or to pursue a claim for relief or damages on the account of any breach of this Agreement, or of any warranty, covenant, condition, requirement, or obligation contained herein, the prevailing party shall be entitled to recover from the other, in addition, to its damages and any equitable relief, all reasonable costs, fees, and expenses, including expert fees, consultant fees, and attorney fees, whether in conjunction with a settlement, trial, and/or appeal of any proceeding resulting therefrom.

(k) No Waiver of Grantor's Sovereign Immunity. Grantor shall not be liable for any damages to Grantee's utilization and/or use of any access rights of ingress and/or egress granted in this Agreement as to Parcel 1. Grantor, however, shall not willfully cause undue damage to Grantee's access rights of ingress and/or egress as to Parcel 1. Grantee agrees that an unimpeded access by Grantor over the **Easement** granted herein so as to allow Grantor to render any and all of its public safety services 24 hours a day/7 days a week from Parcel 1 is paramount to ensure any and all public safety services and needs are able to be delivered and met. Notwithstanding the foregoing, by entering into this Agreement, Grantor does not intend to waive its sovereign immunity under Florida law or waive the limits of Grantor's liability as set forth in Section 768.28 of the Florida Statutes regardless of whether any such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise.

(l) Recording. This Agreement shall be recorded in the Public Records of Polk County, Florida.

(m) Captions. The captions and paragraphs or letters appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of the sections or articles of this Agreement.

(n) No Public Rights. No rights or benefits in and to the general public or any governmental authority, other than Grantor, are intended to be created or established by this Agreement.

(o) Estoppel Certificates. Each Owner, within thirty (30) days of its receipt of a written request from the other Owner(s), shall from time to time provide the requesting Owner, a certificate binding upon such Owner stating: (i) to the best of such Owner's knowledge, whether any party to this Agreement is in default or violation of this Agreement and if so identifying such default or violation; and (ii) that this Agreement is in full force and effect and identifying any amendments to the Agreement as of the date of such certificate.

(p) Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Parcel, the parties agree that this Agreement shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

(q) Notices. Any notice required by this Agreement shall be in writing and shall be either delivered in person, sent by overnight couriers such as United Parcel Service or Federal Express, or mailed by United States Mail, certified with the return receipt requested and all postage

charges prepaid. Except where the receipt is specifically required in this Agreement, any notice mailed in accordance with these standards to the proper address as set forth below shall be deemed to be effective three (3) calendar days after the date of postmark; notices delivered in person shall be effective upon delivery; and notices sent by overnight courier shall be effective as of the next business day after being placed into the hands of the courier service, properly addressed; and any time period shall begin running as of that date, whether or not the notice is actually received. Notices shall be given in the following manner, or in such other manner as may be directed by either the Grantor and/or the Grantee, in writing from time to time, to the following persons and addresses:

1) If intended for the Grantor:
   City of Winter Haven
   Attention: City Manager
   451 N. W. Third Street (33881)
   Post Office Box 2277
   Winter Haven, Florida 33883-2277

   With a copy to *(which shall not constitute notice):*
   Frederick J. Murphy, Jr., Esquire
   City Attorney
   Boswell & Dunlap LLP
   245 South Central Avenue (33830)
   Post Office Drawer 30
   Bartow, Florida 33831

2) If intended for the Grantee:
   TM STORAGE WINTER HAVEN, LLC
   Stephanie M. Fisher, Manager
   12432 Blue Hill Trail,
   Bradenton, Florida, 34211

Each party shall be responsible for notifying the other party of any change in their address.

(r) Interpretation. Both Grantor and Grantee have contributed to the preparation and drafting of this Agreement; and, in negotiating the terms and condition(s) of this Agreement, neither the Grantor or Grantee has had undue influence or control thereof. Both Grantor and Grantee agree that, in construing and/or interpreting this Agreement, it shall not be construed and/or interpreted in favor of either party by virtue of the preparation, drafting, or negotiation of this Agreement.

IN WITNESS WHEREOF, Grantor has executed this Access Easement Agreement as of the date first set forth above.

Signed, sealed and delivered
in the presence of:

GRANTOR:

CITY OF WINTER HAVEN, a Florida municipal corporation

ATTEST:
By: _____
Vanessa Castillo, MMC, City Clerk

By: _____
Nathaniel J. Birdsong, Jr., Its Mayor

Approved as to form:

_____
Frederick J. Murphy, Jr., City Attorney

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this 9th day of December, 2024 by Nathaniel J. Birdsong, Jr., the Mayor of the **CITY OF WINTER HAVEN**, a Florida municipal corporation, on behalf of the City. He is ☐ personally known to me or ☐ has produced _____ as identification.

My Commission Expires:

_____

Print: _____
Notary Publi**c**

IN WITNESS WHEREOF, Grantee has executed this Access Easement Agreement as of the date first set forth above.

Signed, sealed and delivered
in the presence of:

_____
Print: _____
Address: _____
_____

_____
Print: _____
Address: _____
_____

GRANTEE:

TM STORAGE WINTER HAVEN LLC, a Florida limited liability company

By:
_____
Print:

_____
Its:
Manager
_____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of December, 2024 by STEPHANIE M. FISHER, as the Manager of **TM STORAGE WINTER HAVEN LLC**, a Florida limited liability company, on behalf of the company. She is ☐ personally known to me or ☐ has produced ___ _____as identification.

My Commission Expires:

_____
Print: _____
Notary Public

EXHIBIT A
Legal Description of Parcel 1

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 28 SOUTH, RANGE 26 EAST, POLK COUNTY, FLORIDA; THENCE SOUTH 89°59'55" WEST, 989.61 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00°17'37" EAST, 7.26 FEET TO THE NORTHERLY RIGHT-OF-WAY OF STATE ROAD 544; THENCE NORTH 89°59'43" WEST, 230 FEET; THENCE NORTH 00°08'26" WEST, 350 FEET; THENCE SOUTH 89°59'43" EAST, 230.00 FEET; THENCE SOUTH 00°08'26" EAST, 342.74 FEET TO THE POINT OF BEGINNING.

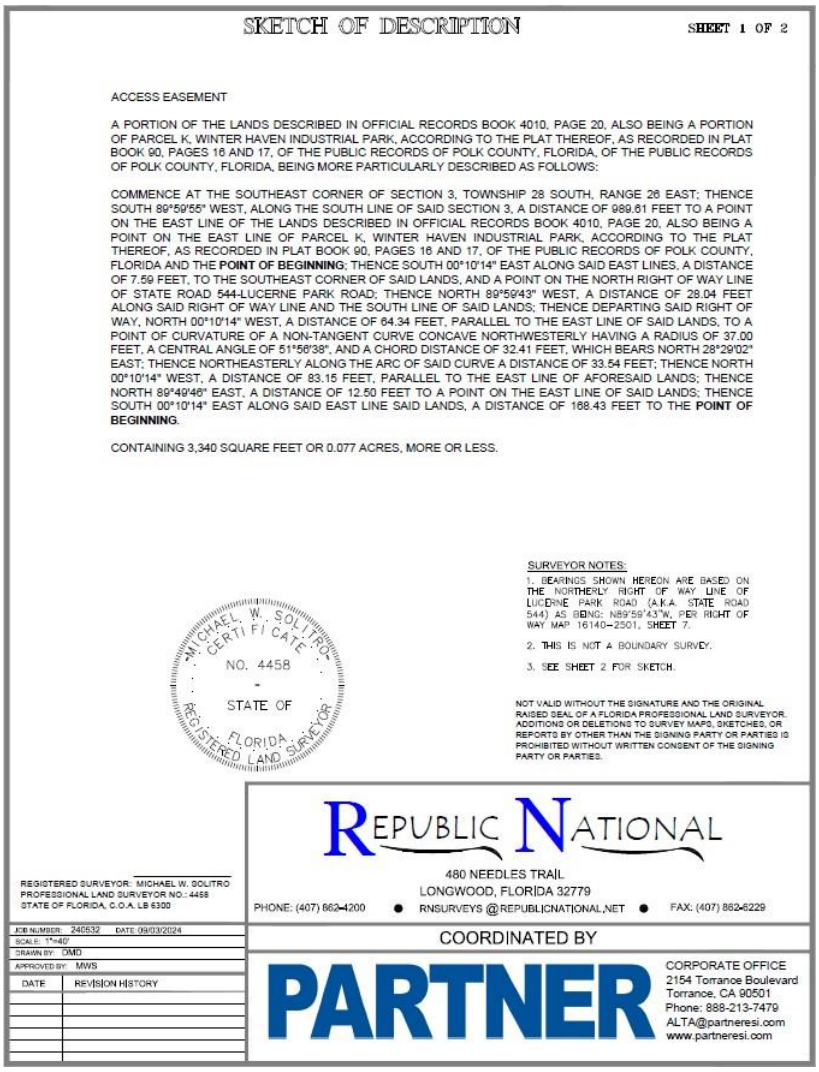
EXHIBIT B

Legal Description of Parcel 2

THE EAST 1/2 OF LOT 307 OF LUCERNE PARK FRUIT ASSOCIATION, IN SECTION 3, TOWNSHIP 28 SOUTH, RANGE 26 EAST, AS RECORDED IN PLAT BOOK 3, PAGE 67 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, AND THE 25 FOOT VACATED RIGHT-OF-WAY LYING SOUTH AND ADJACENT TO THE SAID EAST 1/2 OF LOT 307, AND THAT PART OF SECTION 10, TOWNSHIP 28 SOUTH, RANGE 26 EAST LYING NORTH OF STATE ROAD 544 AND BETWEEN THE SOUTHERLY EXTENSION OF THE EAST AND WEST BOUNDARIES OF THE EAST 1/2 OF SAID LOT 307.

EXHIBIT C

Legal Description of Easement Area



SKETCH OF DESCRIPTION SHEET 1 OF 2

ACCESS EASEMENT

A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4010, PAGE 20, ALSO BEING A PORTION OF PARCEL K, WINTER HAVEN INDUSTRIAL PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 90, PAGES 16 AND 17, OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 28 SOUTH, RANGE 26 EAST; THENCE SOUTH 89°59'55" WEST, ALONG THE SOUTH LINE OF SAID SECTION 3, A DISTANCE OF 989.61 FEET TO A POINT ON THE EAST LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4010, PAGE 20, ALSO BEING A POINT ON THE EAST LINE OF PARCEL K, WINTER HAVEN INDUSTRIAL PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 90, PAGES 16 AND 17, OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA AND THE **POINT OF BEGINNING**; THENCE SOUTH 00°10'14" EAST ALONG SAID EAST LINES, A DISTANCE OF 7.59 FEET, TO THE SOUTHEAST CORNER OF SAID LANDS, AND A POINT ON THE NORTH RIGHT OF WAY LINE OF STATE ROAD 544-LUCERNE PARK ROAD; THENCE NORTH 89°59'43" WEST, A DISTANCE OF 28.04 FEET ALONG SAID RIGHT OF WAY LINE AND THE SOUTH LINE OF SAID LANDS; THENCE DEPARTING SAID RIGHT OF WAY, NORTH 00°10'14" WEST, A DISTANCE OF 64.34 FEET, PARALLEL TO THE EAST LINE OF SAID LANDS, TO A POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 37.00 FEET, A CENTRAL ANGLE OF 51°56'38", AND A CHORD DISTANCE OF 32.41 FEET, WHICH BEARS NORTH 28°29'02" EAST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 33.54 FEET; THENCE NORTH 00°10'14" WEST, A DISTANCE OF 83.15 FEET, PARALLEL TO THE EAST LINE OF AFORESAID LANDS; THENCE NORTH 89°49'46" EAST, A DISTANCE OF 12.50 FEET TO A POINT ON THE EAST LINE OF SAID LANDS; THENCE SOUTH 00°10'14" EAST ALONG SAID EAST LINE SAID LANDS, A DISTANCE OF 168.43 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 3,340 SQUARE FEET OR 0.077 ACRES, MORE OR LESS.

SURVEYOR NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE NORTHERLY RIGHT OF WAY LINE OF LUCERNE PARK ROAD (A.K.A. STATE ROAD 544) AS BEING: N89°59'43"W, PER RIGHT OF WAY MAP 16140-2501, SHEET 7.
2. THIS IS NOT A BOUNDARY SURVEY.
3. SEE SHEET 2 FOR SKETCH.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA PROFESSIONAL LAND SURVEYOR. ADDITIONS OR DELETIONS TO SURVEY MAPS, SKETCHES, OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

MICHAEL W. SOLITRO CERTIFICATE NO. 4458 STATE OF FLORIDA REGISTERED LAND SURVEYOR

REGISTERED SURVEYOR: MICHAEL W. SOLITRO
PROFESSIONAL LAND SURVEYOR NO.: 4458
STATE OF FLORIDA, C.O.A. LB 6300

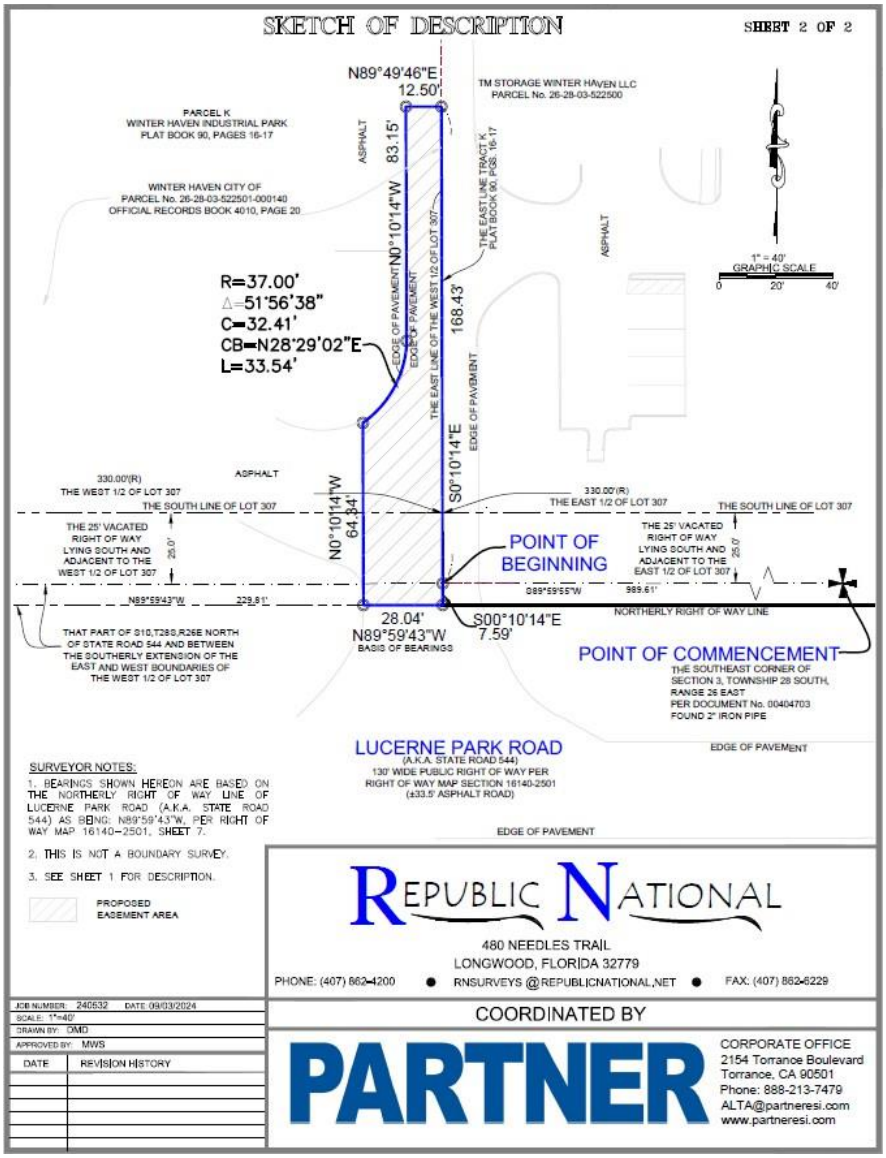
REPUBLIC NATIONAL
480 NEEDLES TRAIL
LONGWOOD, FLORIDA 32779
PHONE: (407) 862-4200 ● RNSURVEYS@REPUBLICNATIONAL.NET ● FAX: (407) 862-6229

JOB NUMBER:	240632 DATE: 09/03/2024
SCALE:	1"=40'
DRAWN BY:	OMD
APPROVED BY:	MWS

DATE	REVISION HISTORY

COORDINATED BY

PARTNER
CORPORATE OFFICE
2154 Torrance Boulevard
Torrance, CA 90501
Phone: 888-213-7479
ALTA@partneresi.com
www.partneresi.com


SKETCH OF DESCRIPTION
SHEET 2 OF 2
N89°49'46"E
12.50'
TM STORAGE WINTER HAVEN LLC
PARCEL No. 26-28-03-522500
PARCEL K
WINTER HAVEN INDUSTRIAL PARK
PLAT BOOK 90, PAGES 16-17
WINTER HAVEN CITY OF
PARCEL No. 26-28-03-522501-000140
OFFICIAL RECORDS BOOK 4010, PAGE 20
ASPHALT
83.15'
N0°10'14"W
THE EAST LINE TRACT K
PLAT BOOK 90, PGS. 16-17
ASPHALT
1" = 40'
GRAPHIC SCALE
0
20'
40'
R=37.00'
Δ=51°56'38"
C=32.41'
CB=N28°29'02"E
L=33.54'
EDGE OF PAVEMENT
EDGE OF PAVEMENT
168.43'
THE EAST LINE OF THE WEST 1/2 OF LOT 307
EDGE OF PAVEMENT
S0°10'14"E
ASPHALT
330.00'(R)
THE WEST 1/2 OF LOT 307
THE SOUTH LINE OF LOT 307
N0°10'14"W
64.34'
330.00'(R)
THE EAST 1/2 OF LOT 307
THE SOUTH LINE OF LOT 307
THE 25' VACATED
RIGHT OF WAY
LYING SOUTH AND
ADJACENT TO THE
WEST 1/2 OF LOT 307
25.0'
POINT OF
BEGINNING
THE 25' VACATED
RIGHT OF WAY
LYING SOUTH AND
ADJACENT TO THE
EAST 1/2 OF LOT 307
25.0'
N89°59'43"W
229.81'
S89°59'55"W
989.61'
NORTHERLY RIGHT OF WAY LINE
28.04'
N89°59'43"W
BASIS OF BEARINGS
S00°10'14"E
7.59'
THAT PART OF S10,T28S,R26E NORTH
OF STATE ROAD 544 AND BETWEEN
THE SOUTHERLY EXTENSION OF THE
EAST AND WEST BOUNDARIES OF
THE WEST 1/2 OF LOT 307
POINT OF COMMENCEMENT
THE SOUTHEAST CORNER OF
SECTION 3, TOWNSHIP 28 SOUTH,
RANGE 26 EAST
PER DOCUMENT No. 00404703
FOUND 2" IRON PIPE
LUCERNE PARK ROAD
(A.K.A. STATE ROAD 544)
130' WIDE PUBLIC RIGHT OF WAY PER
RIGHT OF WAY MAP SECTION 16140-2501
(±33.5' ASPHALT ROAD)
EDGE OF PAVEMENT
EDGE OF PAVEMENT
SURVEYOR NOTES:
1. BEARINGS SHOWN HEREON ARE BASED ON THE NORTHERLY RIGHT OF WAY LINE OF LUCERNE PARK ROAD (A.K.A. STATE ROAD 544) AS BEING: N89°59'43"W, PER RIGHT OF WAY MAP 16140-2501, SHEET 7.
2. THIS IS NOT A BOUNDARY SURVEY.
3. SEE SHEET 1 FOR DESCRIPTION.
PROPOSED
EASEMENT AREA
REPUBLIC NATIONAL
480 NEEDLES TRAIL
LONGWOOD, FLORIDA 32779
PHONE: (407) 862-4200
RNSURVEYS @REPUBLICNATIONAL.NET
FAX: (407) 862-6229
JOB NUMBER: 240632 DATE: 09/03/2024
SCALE: 1"=40'
DRAWN BY: DMD
APPROVED BY: MWS
DATE
REVISION HISTORY
COORDINATED BY
PARTNER
CORPORATE OFFICE
2154 Torrance Boulevard
Torrance, CA 90501
Phone: 888-213-7479
ALTA@partneresi.com
www.partneresi.com

DATE: November 25, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Troy Heidel, Airport Director

SUBJECT: R-24-53 Approval of a Public Transportation Grant Agreement with the Florida Department of Transportation (FDOT) for Obstructions Clearing

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BACKGROUND

This project addresses vegetation obstructions within the Runway 5 approach and departure surfaces. The Airport regularly maintains vegetation at the end of Runway 5 and between the runway and Lake Jesse. However, the vegetation continues to grow and reoccur as airspace obstruction requiring ongoing maintenance.

The scope of this project includes clearing and grubbing vegetation beyond the end of Runway 5 to eliminate obstructions. To prevent recurring growth, wetlands in the area will be filled and sodded, making them mowable for future maintenance. A significant portion of the project costs is anticipated to cover wetland mitigation, which is necessary to comply with environmental regulations. Additionally, the security fence will be relocated to align with the newly cleared area.

By implementing these measures, the project will enhance airspace safety, reduce recurring maintenance challenges, and support the Airport's long-term operational goals.

FINANCIAL IMPACT

The estimated cost of the project is $1,844,000. The Florida Department of Transportation (FDOT), through this Public Transportation Grant Agreement (PTGA), will fund 80% of the project costs, amounting to $1,475,200. The City is responsible for the remaining 20%, or $368,800, which has been included in the City's FY25 budget as matching funds.

STRATEGIC PLAN ALIGNMENT

- Pillar: Infrastructure
- Goal: 3.2 – Take a comprehensive approach to transportation planning and maintenance of transportation assets.

RECOMMENDATION

Staff recommends the City Commission approve Resolution R-24-53 and authorize the City Manager or his designee to execute the subject Grant Agreement with the Florida Department of Transportation (FDOT), Grant No. G3639 and take all other necessary actions incidental to the implementation of same.

ATTACHMENTS

- R-24-53 with Exhibit A
- Public Transportation Grant Agreement

RESOLUTION NO. R-24-53

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER HAVEN, FLORIDA, APPROVING THAT CERTAIN PUBLIC TRANSPORTATION GRANT AGREEMENT BETWEEN THE CITY OF WINTER HAVEN AND THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) UNDER CONTRACT NUMBER G3639 AND FINANCIAL PROJECT NUMBER 451943-1-94-01 FOR FUNDING FOR OBSTRUCTIONS CLEARING PROJECT AT THE WINTER HAVEN REGIONAL AIRPORT - GILBERT FIELD AND AUTHORIZING THE CITY MANAGER AND APPROPRIATE CITY OFFICIALS TO EXECUTE AND TO TAKE ALL OTHER NECESSARY ACTIONS REGARDING THE SAID PUBLIC TRANSPORTATION GRANT AGREEMENT; PROVIDING FOR SEVERABILITY, CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is in the best interests of the residents and citizens of the City of Winter Haven for the City to enter into a Public Transportation Grant Agreement with the Florida Department of Transportation to provide funds for Obstructions Clearing Project at the Airport as authorized by Chapter 332 of the Florida Statutes, and Florida Administrative Code 14-60 in the form attached hereto as Exhibit “A” and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER HAVEN, FLORIDA:

1. The above recitals are incorporated herein and form a factual basis for the passage of this Resolution.

2. That the Public Transportation Grant Agreement with the Florida Department of Transportation under Contract Number G3639 for funding for Obstructions Clearing Project at the Winter Haven Regional Airport-Gilbert Field, under Financial Project Number 451943-1-94-01, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference, is approved.

3. That the City Manager, T. Michael Stavres, or his designee, and all other appropriate City officials are authorized to execute on behalf of the City of Winter Haven, the Public Transportation Grant Agreement under Contract Number G3639 and Financial Project Number 451943-1-94-01 with the Florida Department of Transportation for the purposes set forth hereinabove and any necessary amendments and to take all other necessary actions relating to the referenced Public Transportation Grant Agreement with FDOT and the Project.

4. The provisions of this Resolution are severable. If any word, sentence, clause, phrase or provision of this Resolution for any reason is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this Resolution shall remain in full force and

effect.

5. All Resolutions in conflict with this Resolution are repealed to the extent necessary to give this Resolution full force and effect.

6. This Resolution shall take effect immediately upon its passage.

INTRODUCED AND PASSED by the City Commission of the City of Winter Haven, Florida, in Regular Session, on this 9th day of December, 2024.

CITY OF WINTER HAVEN, FLORIDA

BY: _____
MAYOR - COMMISSIONER

ATTEST:

_____
CITY CLERK

Approved as to form:

_____
CITY ATTORNEY

Docusign Envelope ID: DA6F45AA-C0DB-47B7-8E63-F4E742F305AE

EXHIBIT "A"
to Resolution R-24-53
Form 725-000-01
STRATEGIC
DEVELOPMENT
OGC 10/24

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

PUBLIC TRANSPORTATION GRANT AGREEMENT

Financial Project Number(s): (item-segment-phase-sequence)		Fund(s):	DDR	FLAIR Category:	088719
451943-1-94-01		Work Activity Code/Function:	215	Object Code:	751000
		Federal Award Identification Number (FAIN) – Transit only:	N/A	Org. Code:	55012020129
Contract Number:	G3639	Federal Award Date:	N/A	Vendor Number:	VF596000453002
CFDA Number:	N/A	Agency UEI Number:	N/A		
CFDA Title:	N/A				
CSFA Number:	55.004				
CSFA Title:	Aviation Grant Program				

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into _____, by and between the State of Florida, Department of Transportation, ("Department"), and City of Winter Haven, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 332.007, Florida Statutes, to enter into this Agreement.

2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Winter Haven Airport Obstructions Clearing, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.

3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

X **Aviation**
__ **Seaports**
__ **Transit**
__ **Intermodal**
__ **Rail Crossing Closure**
__ **Match to Direct Federal Funding** (Aviation or Transit)
(Note: Section 15 and Exhibit G do not apply to federally matched funding)
__ **Other**

4. **Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

X Exhibit A: Project Description and Responsibilities
X Exhibit B: Schedule of Financial Assistance
__ *Exhibit B1: Deferred Reimbursement Financial Provisions
__ *Exhibit B2: Advance Payment Financial Provisions
__ *Exhibit B3: Alternative Advanced Pay (Transit Bus Program)
X *Exhibit C: Terms and Conditions of Construction
X Exhibit D: Agency Resolution
X Exhibit E: Program Specific Terms and Conditions
X Exhibit E1: Prohibition Based on Health Care Choices
__ Exhibit E2: Exterior Vehicle Wrap, Tinting, Paint, Marketing and Advertising (Transit)
X Exhibit F: Contract Payment Requirements

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X *Exhibit G: Audit Requirements for Awards of State Financial Assistance
__ *Exhibit H: Audit Requirements for Awards of Federal Financial Assistance
__ *Exhibit I: Certification of Disbursement of Payment to Vehicle and/or Equipment Vendor
__ *Additional Exhibit(s):

*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

5. **Time.** Unless specified otherwise, all references to "days" within this Agreement refer to calendar days.

6. **Term of Agreement.** This Agreement shall commence upon full execution by both Parties ("Effective Date") and continue through December 31, 2026. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

   a. __ If this box is checked the following provision applies:

   Unless terminated earlier, work on the Project shall commence no later than the __ day of __, or within __ days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

7. **Amendments, Extensions, and Assignment.** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

8. **Termination or Suspension of Project.** The Department may, by written notice to the Agency, suspend any or all of the Department's obligations under this Agreement for the Agency's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

   a. Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

   b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.

   c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.

   d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

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e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

9. Project Cost:

a. The estimated total cost of the Project is $1,844,000. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.

b. The Department agrees to participate in the Project cost up to the maximum amount of $1,475,200 and, the Department's participation in the Project shall not exceed 80.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B'', Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

10. Compensation and Payment:

a. Eligible Cost. The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A"**, **Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.

b. Deliverables. The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.

c. Invoicing. Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.

d. Supporting Documentation. Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.

e. Travel Expenses. The selected provision below is controlling regarding travel expenses:

X Travel expenses are NOT eligible for reimbursement under this Agreement.

__ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's

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Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

f. **Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

g. **Invoice Processing**. An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

   If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

   A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

h. **Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

i. **Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

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j. Submission of Other Documents. The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

k. Offsets for Claims. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

l. Final Invoice. The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.

m. Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

n. Limits on Contracts Exceeding $25,000 and Term more than 1 Year. In the event this Agreement is in excess of $25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

> "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year."

o. Agency Obligation to Refund Department. Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.

p. Non-Eligible Costs. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A"**, **Project**

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Description and Responsibilities, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A"**, **Project Description and Responsibilities.**

11. **General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

    a. **Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.

    b. **Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.

    c. **Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than $250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:

        i. Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or

        ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.

    d. __ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).

    e. __ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):

        i. __ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).

        ii. __ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.

        iii. __ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.

    f. **Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms

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and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

g. **Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

12. Contracts of the Agency:

a. **Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.

b. **Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.

c. **Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

d. **Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors

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and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

13. **Maintenance Obligations.** In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

    a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

14. **Sale, Transfer, or Disposal of Department-funded Property:**

    a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.

    b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:

        i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.

        ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.

        iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.

        iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.

    c. The terms of provisions “a” and “b” above shall survive the termination of this Agreement.

        i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.

        ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

15. **Single Audit.** The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

    Federal Funded:

    a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by

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Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:

i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit "H", Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.

ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than Federal entities).

iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at https://harvester.census.gov/facweb/ the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.

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v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
3. Wholly or partly suspend or terminate the Federal award;
4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
5. Withhold further Federal awards for the Project or program;
6. Take other remedies that may be legally available.

vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

State Funded:

a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.

b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:

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i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance,** to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).

iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0405
FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as

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applicable.

vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.

viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

16. **Notices and Approvals.** Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

17. **Restrictions, Prohibitions, Controls and Labor Provisions:**

a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

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c. Non-Responsible Contractors. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

d. Prohibition on Using Funds for Lobbying. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

e. Unauthorized Aliens. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.

f. Procurement of Construction Services. If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.

g. E-Verify. The Agency shall:

i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and

ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

h. Projects with Non-profit Organizations. Pursuant to Section 216.1366. Florida Statutes, if the Agency is a nonprofit organization as defined in Section 215.97(2)(m), Florida Statutes, the Agency shall provide documentation to indicate the amount of state funds:

i. Allocated to be used during the full term of this Agreement for remuneration to any member of the board of directors or an officer of the Agency

ii. Allocated under each payment by the Department to be used for remuneration of any member of the board of directors or an officer of the Agency. The documentation must indicate the amounts and recipients of the remuneration.

Such information will be posted by the Department to the Florida Accountability Contract Tracking System maintained pursuant to Section 215.985, F.S., and must additionally be posted to the Agency's website, if the Agency is a non-profit organization and maintains a website. The Agency shall utilize the Department's Form 350-090-19, Compensation to Non-Profits Using State Funds, for purposes of documenting the compensation. The subject Form is required for every contract for services executed, amended, or extended on or after July 1, 2023, with non-profit organizations.

Pursuant to Section 216.1366, F.S., the term:

iii. "Officer" means a chief executive officer, chief financial officer, chief operating officer, or any other position performing and equivalent function.

iv. "Remuneration" means all compensation earned by or awarded to personnel, whether paid or accrued, regardless of contingency, including bonuses, accrued paid time off,

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severance payments, incentive payments, contributions to a retirement plan or in-kind payments, reimbursements, or allowances for moving expenses, vehicles and other transportation, telephone services, medical services, housing and meals.

v. "State Funds" means funds paid from the General Revenue Fund or any state trust fund, funds allocated by the Federal Government and distributed by the state, or funds appropriated by the Federal Government and distributed by the state, or funds appropriated by the state fo distribution through any grant program. The term does not include funds used for the Medicaid program.

i. Design Services and Construction Engineering and Inspection Services. If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

18. Indemnification and Insurance:

a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the Agency shall indemnify, defend, and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the Department's or the Agency's sovereign immunity. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the Department's or the Agency's sovereign immunity. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify, defend, and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include

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operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.

c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than $2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than $6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.

e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

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19. Miscellaneous:

a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.

b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.

e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

g. **Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.

h. **Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).

i. **Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

j. **Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

PUBLIC TRANSPORTATION GRANT AGREEMENT

AGENCY City of Winter Haven

By: _____

Name: _____

Title: _____

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: _____

Name: Nicole E. Mills, P.E.

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
Legal Review:

Don Conway, Senior Attorney (as to form and legality)

DS
DC

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EXHIBIT A

Project Description and Responsibilities

A. Project Description (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): Winter Haven Airport Obstructions Clearing

B. Project Location (limits, city, county, map): Winter Haven Regional Airport/Winter Haven, FL/Polk

C. Project Scope (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): As required by 215.971, F.S., this scope of work includes but is not limited to consultant and design fees, survey costs, permitting, construction inspection costs, mobilization and demobilization, maintenance of traffic, demolition, mitigation, marking, and lighting (conduits, cables, and fixtures). It includes all materials, equipment, labor, and incidentals required to complete the project. The Sponsor will comply with Aviation Program Assurances.

D. Deliverable(s):

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

E. Unallowable Costs (including but not limited to):

F. Transit Operating Grant Requirements (Transit Only):

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.

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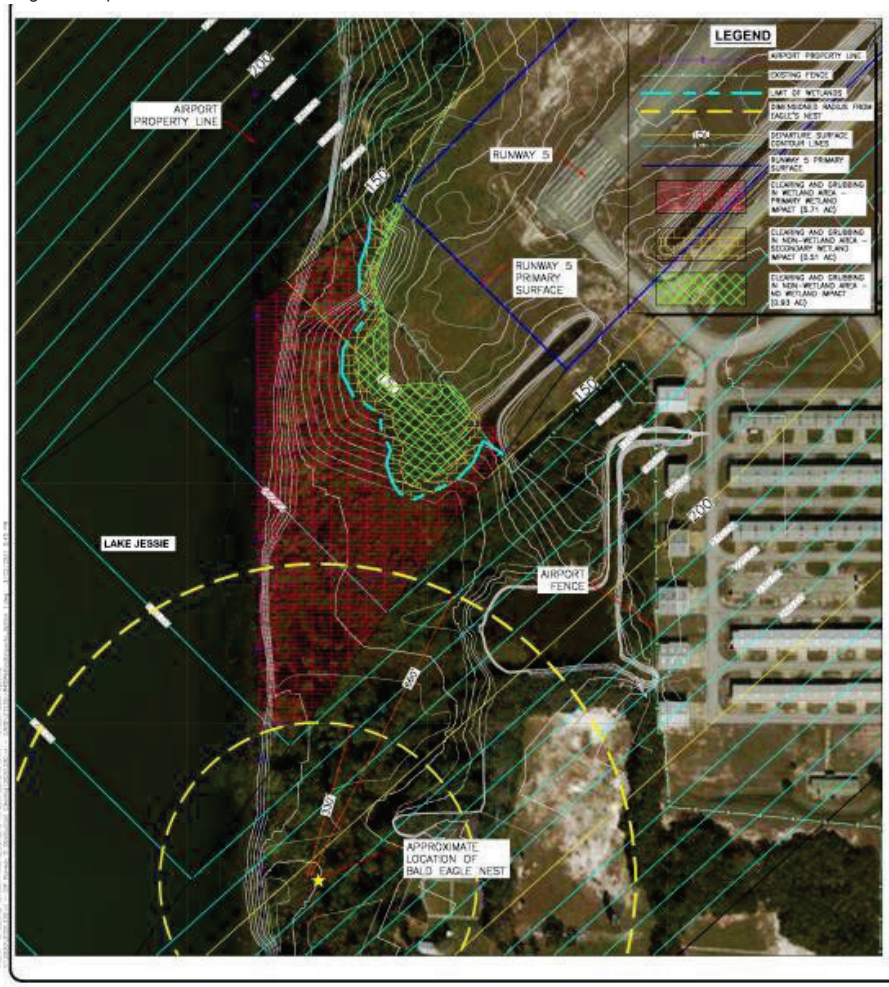

North
0' 50' 100' 200'
GRAPHIC SCALE IN FEET

PRELIMINARY ESTIMATE OF PROBABLE CONSTRUCTION COST

ITEM NUMBER	SID ITEM	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	EXTENDED TOTAL
1	M-101-1	MOBILIZATION	LS	1	$ 10,000.00	$ 10,000.00
2	M-102-1	SAFETY, SECURITY AND MAINTENANCE OF TRAFFIC	LS	1	$ 5,000.00	$ 5,000.00
3	M-102-2	SAFETY, PHASING AND CONSTRUCTION PLAN	LS	1	$ 5,000.00	$ 5,000.00
4	P-151-1	CLEARING & GRUBBING - WETLAND AREAS	AC	3.71	$ 25,000.00	$ 142,750.00
5	P-151-2	CLEARING & GRUBBING - NON-WETLAND AREAS	AC	1.44	$ 15,000.00	$ 21,600.00
6	P-151-3	DEBRIS REMOVAL	LS	1	$ 10,000.00	$ 10,000.00
7	P-151-4	DEMUCKING	CY	10,000	$ 25.00	$ 250,000.00
8	P-152-1	EXCAVATION & EMBANKMENT	CY	40,000	$ 12.00	$ 480,000.00
9	P-156-1	TEMPORARY AIR AND WATER POLLUTION, SOIL EROSION AND SILTATION CONTROL	LS	1	$ 10,000.00	$ 10,000.00
10	F-162-1	CHAIN LINK FENCE REMOVAL AND RELOCATION	LS	1	$ 15,000.00	$ 15,000.00
11	T-904-1	SODDING	SY	35,000	$ 3.50	$ 122,500.00
					SUBTOTAL:	$ 1,014,350.00
12	998-1	WETLAND MITIGATION CREDITS* - PRIMARY IMPACTS (3.71 CREDITS)	EA	3.71	$ 165,000.00	$ 362,600.00
13	998-2	WETLAND MITIGATION CREDITS* - SECONDARY IMPACTS (1.75 CREDITS)	EA	8.15	$ 165,000.00	$ 29,250.00
					SUBTOTAL:	$ 1,406,400.00
					10% CONTINGENCY:	$ 147,440.00
					CONSTRUCTION TOTAL:	$ 1,544,840.00

*PLEASE NOTE: THE ESTIMATED MITIGATION COST IS BASED ON THE PURCHASE OF MITIGATION CREDITS FROM THE ACCESS ROAD RELOCATION PROJECT. THE ACTUAL MITIGATION COST WILL BE DETERMINED DURING THE DESIGN AND PERMITTING PHASE OF THIS PROJECT. PRICES AND AVAILABILITY OF WETLAND MITIGATION BANK CREDITS ARE SUBJECT TO CHANGE. THE ESTIMATED MITIGATION CREDIT FOR PRIMARY IMPACTS HAS BEEN CALCULATED AS 53.3% OF THE PRIMARY IMPACT ACREAGE. THE ESTIMATED MITIGATION CREDIT FOR SECONDARY IMPACTS HAS BEEN CALCULATED AS 50.5% OF THE SECONDARY IMPACT ACREAGE.

WINTER HAVEN
The Chain of Lakes City

AVCON, INC.

PROFESSIONAL SEAL

RUNWAY 5 OBSTRUCTION CLEARING

WINTER HAVEN REGIONAL AIRPORT WINTER HAVEN, FLORIDA

RUNWAY 5 OBSTRUCTION REMOVAL WETLAND IMPACTS - OPTION 1

SCALE (FT): GRAPHIC

REVISIONS:

NO.	DATE	BY	DESCRIPTION

DESIGNED BY: BSH
DRAWN BY: ACH
CHECKED BY: BSH
APPROVED BY: SS
DATE: MARCH 2021

FDOT FM NO. XXXXXX-1
FAA AIP NO. 3-12-0000-XXX-XXXX
AVCON PROJECT NO. 2021.239.XX
21XXXXXWSWETLANDIMPACTS_OPTION 1

DRAWING
EX. 1
SHEET 1 OF XX

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION GRANT AGREEMENT EXHIBITS

EXHIBIT B

Schedule of Financial Assistance

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

A. Fund Type and Fiscal Year:

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/ CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
451943-1-94-01	DDR	088719	2025	751000	55.004	Aviation Grant Program	$1,475,200.00
451943-1-94-01	LF	088719	2025	751000	55.004	Aviation Grant Program	$368,800.00
	Total Financial Assistance						$1,844,000.00

B. Estimate of Project Costs by Grant Phase:

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Planning	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Environmental/Design/Construction	$1,475,200.00	$368,800.00	$0.00	$1,844,000.00	80.00	20.00	0.00
Capital Equipment/ Preventative Maintenance	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Mobility Management (Transit Only)	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Totals	$1,475,200.00	$368,800.00	$0.00	$1,844,000.00			

*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

Scope Code and/or Activity Line Item (ALI) (Transit Only)	

BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Jennifer Gaona, MPA
Department Grant Manager Name

DocuSigned by:
Jennifer Gaona
23A08B2DA0DD44D...
Signature

11/19/2024 | 1:54 PM EST
Date

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION
GRANT AGREEMENT EXHIBITS

EXHIBIT C

TERMS AND CONDITIONS OF CONSTRUCTION

1. **Design and Construction Standards and Required Approvals.**

   a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.

   b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, Jennifer Gaona, MPA (email: jennifer.gaona@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.

   c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.

   d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).

   e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.

   f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

2. **Construction on the Department's Right of Way.** If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

   a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.

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b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.

c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.

d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is __.

e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.

f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.

g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.

h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

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estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S.

i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.

j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.

k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.

l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.

m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.

n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.

o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.

p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,

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without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.

q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.

s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.

t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation):

u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)

3. **Engineer's Certification of Compliance.** The Agency shall complete and submit and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION
GRANT AGREEMENT EXHIBITS

ENGINEER'S CERTIFICATION OF COMPLIANCE

PUBLIC TRANSPORTATION GRANT AGREEMENT
BETWEEN
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and _____

PROJECT DESCRIPTION: _____

DEPARTMENT CONTRACT NO.: _____

FINANCIAL MANAGEMENT NO.: _____

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: _____, P.E.

SEAL:

Name: _____

Date: _____

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PUBLIC TRANSPORTATION GRANT AGREEMENT EXHIBITS

EXHIBIT D

AGENCY RESOLUTION

PLEASE SEE ATTACHED

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EXHIBIT E

PROGRAM SPECIFIC TERMS AND CONDITIONS - AVIATION
AVIATION PROGRAM ASSURANCES

A. General.

1. The assurances herein shall form an integral part of the Agreement between the Department and the Agency.

2. These assurances delineate the obligations of the Parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit "A", Project Description and Responsibilities**, and **Exhibit "B", Schedule of Financial Assistance**, as well as serving to protect public investment in public-use airports and the continued viability of the Florida Aviation System.

3. The Agency shall comply with the assurances as specified in this Agreement.

4. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for an airport development or noise compatibility program project, but shall not exceed 20 years from the effective date of this Agreement.

5. There shall be no limit on the duration of the terms and assurances of this Agreement regarding Exclusive Rights and Airport Revenue so long as the property is used as a public airport.

6. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by this Agreement.

7. Subject to appropriations, the Department shall continue to comply with its financial commitment to this Project under the terms of this Agreement, until such time as the Department may determine that the Agency has failed to comply with the terms and assurances of this Agreement.

8. An Agency that has been determined by the Department to have failed to comply with either the terms of these Assurances, or the terms of the Agreement, or both, shall be notified, in writing, by the Department, identifying the specifics of the non-compliance and any corrective action by the Agency to remedy the failure.

9. Failure by the Agency to satisfactorily remedy the non-compliance shall absolve the Department's continued financial commitment to this Project and immediately require the Agency to repay the Department the full amount of funds expended by the Department on this Project.

10. Any history of failure to comply with the terms and assurances of an Agreement will jeopardize the Agency's eligibility for further state funding of airport projects by the Department.

B. Agency Compliance Certification.

1. **General Certification.** The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and applicable local governments, as well as Department policies, guidelines, and requirements, including but not limited to, the following (latest version of each document):

   a. **Florida Statutes (F.S.)**
      - Chapter 163, F.S., Intergovernmental Programs
      - Chapter 329, F.S., Aircraft: Title; Liens; Registration; Liens
      - Chapter 330, F.S., Regulation of Aircraft, Pilots, and Airports
      - Chapter 331, F.S., Aviation and Aerospace Facilities and Commerce
      - Chapter 332, F.S., Airports and Other Air Navigation Facilities
      - Chapter 333, F.S., Airport Zoning

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b. Florida Administrative Code (FAC)
- Chapter 73C-41, FAC, Community Planning; Governing the Procedure for the Submittal and Review of Local Government Comprehensive Plans and Amendments
- Chapter 14-60, FAC, Airport Licensing, Registration, and Airspace Protection
- Section 62-256.300, FAC, Open Burning, Prohibitions
- Section 62-701.320(13), FAC, Solid Waste Management Facility Permit Requirements, General, Airport Safety

c. Local Government Requirements
- Airport Zoning Ordinance
- Local Comprehensive Plan

d. Department Requirements
- Eight Steps of Building a New Airport
- Florida Airport Revenue Use Guide
- Florida Aviation Project Handbook
- Guidebook for Airport Master Planning
- Airport Compatible Land Use Guidebook

2. **Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as Federal Aviation Administration (FAA) Advisory Circulars (AC's) and FAA issued waivers thereto, including but not limited to, the following:

a. Federal Requirements
- FAA AC 70/7460-1, Obstruction Marking and Lighting
- FAA AC 150/5300-13, Airport Design
- FAA AC 150/5370-2, Operational Safety on Airports During Construction
- FAA AC 150/5370-10, Standards for Specifying Construction of Airports

b. Local Government Requirements
- Local Building Codes
- Local Zoning Codes

c. Department Requirements
- Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the "Florida Green Book")
- Manual on Uniform Traffic Control Devices
- Section 14-60.007, FAC, Airfield Standards for Licensed Airports
- Standard Specifications for Construction of General Aviation Airports
- Design Guidelines & Minimum Standard Requirements for T-Hangar Projects

3. **Land Acquisition Certification.** The Agency hereby certifies, regarding land acquisition, that it will comply with applicable federal and/or state policies, regulations, and laws, including but not limited to the following:

a. Federal Requirements
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- National Environmental Policy of 1969
- FAA Order 5050.4, National Environmental Policy Act Implementing Instructions for Airport Projects
- FAA Order 5100.37B, Land Acquisition and Relocation Assistance for Airport Projects

b. Florida Requirements
- Chapter 73, F.S., Eminent Domain (re: Property Acquired Through Condemnation)
- Chapter 74, F.S., Proceedings Supplemental to Eminent Domain (re: Condemnation)
- Section 286.23, F.S., Public Business: Miscellaneous Provisions

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C. Agency Authority.

1. **Legal Authority.** The Agency hereby certifies, with respect to this Agreement, that it has the legal authority to enter into this Agreement and commit to this Project; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the airport sponsor's governing body authorizing this Agreement, including assurances contained therein, and directing and authorizing the person identified as the official representative of the governing body to act on its behalf with respect to this Agreement and to provide any additional information as may be required.

2. **Financial Authority.** The Agency hereby certifies, with respect to this Agreement, that it has sufficient funds available for that portion of the Project costs which are not paid by the U.S. Government or the State of Florida; that it has sufficient funds available to assure future operation and maintenance of items funded by this Project, which it will control; and that authority has been granted by the airport sponsor governing body to commit those funds to this Project.

D. Agency Responsibilities. The Agency hereby certifies it currently complies with or will comply with the following responsibilities:

1. **Accounting System.**

   a. The Agency shall create and maintain a separate account to document all of the financial transactions related to the airport as a distinct entity.

   b. The accounting records shall be kept by the Agency or its authorized representative in accordance with Generally Accepted Accounting Principles and in an accounting system that will facilitate an effective audit in accordance with the 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Section 215.97, F.S., Florida Single Audit Act.

   c. The Department has the right to audit and inspect all financial records of the Agency upon reasonable notice.

2. **Good Title.**

   a. The Agency holds good title, satisfactory to the Department, to the airport or site thereof, or gives assurance, satisfactory to the Department, that good title will be obtained.

   b. For noise compatibility program projects undertaken on the airport sponsor's property, the Agency holds good title, satisfactory to the Department, to that portion of the property upon which state funds will be expended, or gives assurance, satisfactory to the Department, that good title will be obtained.

3. **Preserving Rights and Powers.**

   a. The Agency shall not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, the Agency shall act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.

   b. If an arrangement is made for management and operation of the airport by any entity or person other than the Agency or an employee of the Agency, the Agency shall reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with the terms and assurances of this Agreement.

4. **Hazard Removal and Mitigation.**

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a. For airport hazards located on airport controlled property, the Agency shall clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

b. For airport hazards not located on airport controlled property, the Agency shall work in conjunction with the governing public authority or private land owner of the property to clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards. The Agency may enter into an agreement with surrounding property owners or pursue available legal remedies to remove potential hazards to air navigation.

5. Airport Compatible Land Use.

a. The Agency assures that appropriate airport zoning ordinances are in place consistent with Section 333.03, F.S., or if not in place, that it will take appropriate action necessary to ensure local government adoption of an airport zoning ordinance or execution of an interlocal agreement with another local government body having an airport zoning ordinance, consistent with the provisions of Section 333.03, F.S.

b. The Agency assures that it will disapprove or oppose any attempted alteration or creation of objects, natural or man-made, dangerous to navigable airspace or that would adversely affect the current or future levels of airport operations.

c. The Agency assures that it will disapprove or oppose any attempted change in local land use development regulations that would adversely affect the current or future levels of airport operations by creation or expansion of airport incompatible land use areas.

6. Consistency with Local Government Plans.

a. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the airport.

b. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.

c. The Agency shall consider and take appropriate actions, if deemed warranted by the Agency, to adopt the current, approved Airport Master Plan into the local government comprehensive plan.

7. Consistency with Airport Master Plan and Airport Layout Plan.

a. The Agency assures that the project, covered by the terms and assurances of this Agreement, is consistent with the most current Airport Master Plan.

b. The Agency assures that the Project, covered by the terms and assurances of this Agreement, is consistent with the most current, approved Airport Layout Plan (ALP), which shows:

1) The boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Agency for airport purposes and proposed additions thereto;
2) The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and
3) The location of all existing and proposed non-aviation areas on airport property and of all existing improvements thereon.

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c. The Agency assures that it will not make or permit any changes or alterations on the airport or any of its facilities that are not consistent with the Airport Master Plan and the Airport Layout Plan, as approved by the Department.

d. Original Airport Master Plans and Airport Layout Plans and each amendment, revision, or modification thereof, will be subject to the approval of the Department.

8. Airport Financial Plan.

a. The Agency assures that it will develop and maintain a cost-feasible Airport financial plan to accomplish the projects necessary to achieve the proposed airport improvements identified in the Airport Master Plan and depicted in the Airport Layout Plan, and any updates thereto. The Agency's Airport financial plan must comply with the following conditions:

1) The Airport financial plan will be a part of the Airport Master Plan.
2) The Airport financial plan will realistically assess project phasing considering availability of state and local funding and likelihood of federal funding under the FAA's priority system.
3) The Airport financial plan will not include Department funding for projects that are inconsistent with the local government comprehensive plan.

b. All Project cost estimates contained in the Airport financial plan shall be entered into and kept current in the Florida Aviation Database (FAD) Joint Automated Capital Improvement Program (JACIP) website.

9. Airport Revenue. The Agency assures that all revenue generated by the airport will be expended for capital improvement or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the air transportation of passengers or property, or for environmental or noise mitigation purposes on or off the airport.

10. Fee and Rental Structure.

a. The Agency assures that it will maintain a fee and rental structure for facilities and services at the airport that it will make the airport as self-sustaining as possible under the circumstances existing at the particular airport.

b. If this Agreement results in a facility that will be leased or otherwise produce revenue, the Agency assures that the price charged for that facility will be based on the market value.

11. Public-Private Partnership for Aeronautical Uses.

a. If the airport owner or operator and a person or entity that owns an aircraft or an airport tenant or potential tenant agree that an aircraft hangar or tenant-specific facility, respectively, is to be constructed on airport property for aircraft storage or tenant use at the expense of the aircraft owner or tenant, the airport owner or operator may grant to the aircraft owner or tenant of the facility a lease that is subject to such terms and conditions on the facility as the airport owner or operator may impose, subject to approval by the Department.

b. The price charged for said lease will be based on market value, unless otherwise approved by the Department.

12. Economic Nondiscrimination.

a. The Agency assures that it will make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public.

1) The Agency may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

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2) The Agency may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

b. The Agency assures that each airport Fixed-Based Operator (FBO) shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport and utilizing the same or similar facilities.

13. Air and Water Quality Standards. The Agency assures that all projects involving airport location, major runway extension, or runway location will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

14. Operations and Maintenance.

a. The Agency assures that the airport and all facilities, which are necessary to serve the aeronautical users of the airport, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation, as well as minimum standards established by the Department for State of Florida licensing as a public-use airport.

1) The Agency assures that it will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
2) Except in emergency situations, any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Department.
3) The Agency assures that it will have arrangements for promptly notifying airmen of any condition affecting aeronautical use of the airport.

b. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when adverse weather conditions interfere with safe airport operations.

15. Federal Funding Eligibility.

a. The Agency assures it will take appropriate actions to maintain federal funding eligibility for the airport and it will avoid any action that renders the airport ineligible for federal funding.

b. If the Agency becomes ineligible for federal funding of airport projects, such determination will render the Agency ineligible for state funding of airport projects.

16. Project Implementation.

a. The Agency assures that it will begin making expenditures or incurring obligations pertaining to this Project within one year after the effective date of this Agreement.

b. The Agency may request a one-year extension of this one-year time period, subject to approval by the Department District Secretary or designee.

c. Failure of the Agency to make expenditures, incur obligations or receive an approved extension may allow the Department to terminate this Agreement.

17. Exclusive Rights. The Agency assures that it will not permit any exclusive right for use of the airport by any person providing, or intending to provide, aeronautical services to the public.

18. Airfield Access.

a. The Agency assures that it will not grant or allow general easement or public access that opens onto or crosses the airport runways, taxiways, flight line, passenger facilities, or any area used for emergency

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equipment, fuel, supplies, passengers, mail and freight, radar, communications, utilities, and landing systems, including but not limited to flight operations, ground services, emergency services, terminal facilities, maintenance, repair, or storage, except for those normal airport providers responsible for standard airport daily services or during special events at the airport open to the public with limited and controlled access.

b. The Agency assures that it will not grant or allow general easement or public access to any portion of the airfield from adjacent real property which is not owned, operated, or otherwise controlled by the Agency without prior Department approval.

19. Retention of Rights and Interests. The Agency will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the real property shown as airport owned or controlled on the current airport layout plan without prior written approval by the Department. It will not sell, lease, encumber, terminate, waive, or otherwise transfer or dispose of any part of its title, rights, or other interest in existing noise easements or avigation easements on any property, airport or non-airport, without prior written approval by the Department. These assurances shall not limit the Agency's right to lease airport property for airport-compatible purposes.

20. Consultant, Contractor, Scope, and Costs.

a. The Department has the right to disapprove the Agency's employment of consultants, contractors, and subcontractors for all or any part of this Project if the specific consultants, contractors, or subcontractors have a record of poor project performance with the Department.

b. Further, the Department maintains the right to disapprove the proposed Project scope and cost of professional services.

21. Planning Projects. For all planning projects or other aviation studies, the Agency assures that it will:

a. Execute the project per the approved project narrative or with approved modifications.

b. Furnish the Department with such periodic project and work activity reports as indicated in the approved scope of services.

c. Make such project materials available for public review, unless exempt from public disclosure.

1) Information related to airport security is considered restricted information and is exempt from public dissemination per Sections 119.071(3) and 331.22 F.S.
2) No materials prepared under this Agreement shall be subject to copyright in the United States or any other country.

d. Grant the Department unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Agreement.

e. If the Project involves developing an Airport Master Plan or an Airport Layout Plan, and any updates thereto, it will be consistent with provisions of the Florida Aviation System Plan, will identify reasonable future growth of the airport and the Agency will comply with the Department airport master planning guidebook, including:

1) Provide copies, in electronic and editable format, of final Project materials to the Department, including computer-aided drafting (CAD) files of the Airport Layout Plan.
2) Develop a cost-feasible financial plan, approved by the Department, to accomplish the projects described in the Airport Master Plan or depicted in the Airport Layout Plan, and any updates thereto. The cost-feasible financial plan shall realistically assess Project phasing considering availability of state and local funding and federal funding under the FAA's priority system.
3) Enter all projects contained in the cost-feasible plan in the Joint Automated Capital Improvement Program (JACIP).

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f. The Agency understands and agrees that Department approval of this Agreement or any planning material developed as part of this Agreement does not constitute or imply any assurance or commitment on the part of the Department to approve any pending or future application for state aviation funding.

g. The Agency will submit master planning draft and final deliverables for Department and, if required, FAA approval prior to submitting any invoices to the Department for payment.

22. Land Acquisition Projects. For the purchase of real property, the Agency assures that it will:

a. Laws. Acquire the land in accordance with federal and/or state laws governing such action.

b. Administration. Maintain direct control of Project administration, including:

1) Maintain responsibility for all related contract letting and administrative procedures related to the purchase of real property.
2) Secure written Department approval to execute each agreement for the purchase of real property with any third party.
3) Ensure a qualified, State-certified general appraiser provides all necessary services and documentation.
4) Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
5) Establish a Project account for the purchase of the land.
6) Collect and disburse federal, state, and local project funds.

c. Reimbursable Funds. If funding conveyed by this Agreement is reimbursable for land purchase in accordance with Chapter 332, F.S., the Agency shall comply with the following requirements:

1) The Agency shall apply for a FAA Airport Improvement Program grant for the land purchase within 60 days of executing this Agreement.
2) If federal funds are received for the land purchase, the Agency shall notify the Department, in writing, within 14 calendar days of receiving the federal funds and is responsible for reimbursing the Department within 30 calendar days to achieve normal project federal, state, and local funding shares per Chapter 332, F.S.
3) If federal funds are not received for the land purchase, the Agency shall reimburse the Department within 30 calendar days after the reimbursable funds are due in order to achieve normal project state and local funding shares as described in Chapter 332, F.S.
4) If federal funds are not received for the land purchase and the state share of the purchase is less than or equal to normal state and local funding shares per Chapter 332, F.S., when reimbursable funds are due, no reimbursement to the Department shall be required.

d. New Airport. If this Project involves the purchase of real property for the development of a new airport, the Agency assures that it will:

1) Apply for federal and state funding to construct a paved runway, associated aircraft parking apron, and connecting taxiway within one year of the date of land purchase.
2) Complete an Airport Master Plan within two years of land purchase.
3) Complete airport construction for basic operation within 10 years of land purchase.

e. Use of Land. The Agency assures that it shall use the land for aviation purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.

f. Disposal of Land. For the disposal of real property the Agency assures that it will comply with the following:
1) For land purchased for airport development or noise compatibility purposes, the Agency shall, when the land is no longer needed for such purposes, dispose of such land at fair market value and/or make available to the Department an amount equal to the state's proportionate share of its market value.

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2) Land will be considered to be needed for airport purposes under this assurance if:

a) It serves aeronautical purposes such as a runway protection zone or as a noise buffer.
b) Revenue from uses of such land contributes to airport financial self-sufficiency.

3) Disposition of land under Sections D.22.f.1. or D.22.f.2. of this Exhibit, above, shall be subject to retention or reservation of any interest or right therein needed to ensure such land will only be used for purposes compatible with noise levels related to airport operations.
4) Revenues from the sale of such land must be accounted for as outlined in Section D.1. of this Exhibit, and expended as outlined in Section D.9. of this Exhibit.

23. Construction Projects. The Agency assures that it will:

a. Project Certifications. Certify Project compliances, including:

1) Consultant and contractor selection comply with all applicable federal, state and local laws, rules, regulations, and policies.
2) All design plans and specifications comply with federal, state, and professional standards and applicable FAA advisory circulars, as well as the minimum standards established by the Department for State of Florida licensing as a public-use airport.
3) Completed construction complies with all applicable local building codes.
4) Completed construction complies with the Project plans and specifications with certification of that fact by the Project Engineer.

b. Design Development. For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer, which are hereinafter collectively referred to as "plans", the Engineer will certify that:

1) The plans shall be developed in accordance with sound engineering and design principles, and with generally accepted professional standards.
2) The plans shall be consistent with the intent of the Project as defined in Exhibit A and Exhibit B of this Agreement.
3) The Project Engineer shall perform a review of the certification requirements listed in Section B.2. of this Exhibit, Construction Certification, and make a determination as to their applicability to this Project.
4) Development of the plans shall comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

c. Inspection and Approval. The Agency assures that:

1) The Agency will provide and maintain competent technical supervision at the construction site throughout the Project to assure that the work conforms to the plans, specifications, and schedules approved by the Department, as applicable, for the Project.
2) The Agency assures that it will allow the Department to inspect the work and that it will provide any cost and progress reporting, as may be required by the Department.
3) The Agency assures that it will take the appropriate corrective action necessary, as required by the Department, for work which does not conform to the Department standards.

d. Pavement Preventive Maintenance. The Agency assures that for a project involving replacement or reconstruction of runway or taxiway pavement it has implemented an airport pavement maintenance management program and that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with state financial assistance at the airport.

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24. Noise Mitigation Projects. The Agency assures that it will:

a. Government Agreements. For all noise compatibility projects that are carried out by another unit of local government or are on property owned by a unit of local government other than the Agency, the Agency shall enter into an agreement with that government body.

1) The local agreement, satisfactory to the Department, shall obligate the unit of local government to the same terms and assurances that apply to the Agency.
2) The Agency assures that it will take steps to enforce the local agreement if there is substantial non-compliance with the terms of the local agreement.

b. Private Agreements. For noise compatibility projects on privately owned property:

1) The Agency shall enter into an agreement with the owner of that property to exclude future actions against the airport.
2) The Agency assures that it will take steps to enforce such agreement if there is substantial non-compliance with the terms of the agreement.

- End of Exhibit E -

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION
GRANT AGREEMENT EXHIBITS

Exhibit E1

PROGRAM SPECIFIC TERMS AND CONDITIONS

(Prohibition on Discrimination Based on Health Care Choices)

This exhibit forms an integral part of the Agreement between the Department and the Agency.

1. **Statutory Reference.** Section 339.08, F.S. and Section 381.00316, F.S.

2. **Statutory Compliance.** Pursuant to Section 339.08, F.S., the Department may not expend state funds to support a project or program of certain entities if the entity is found to be in violation of Section 381.00316, F.S. The Department shall withhold state funds until the entity is found to be in compliance with Section 381.00316, F.S. This shall apply to any of the following entities:

    a. A public transit provider as defined in s. 341.031(1), F.S.;
    b. An authority created pursuant to chapter 343, F.S., chapter 348, F.S., or chapter 349, F.S.; c. A public-use airport as defined in s. 332.004, F.S.; or
    d. A port listed in s. 311.09(1), F.S.

- End of Exhibit E1 -

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EXHIBIT F

Contract Payment Requirements
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf.

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION
GRANT AGREEMENT EXHIBITS

EXHIBIT G

AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~

Awarding Agency: Florida Department of Transportation
State Project Title: Aviation Grant Program
CSFA Number: 55.004
***Award Amount:** $1,475,200

*The award amount may change with amendments

Specific project information for CSFA Number 55.004 is provided at: https://apps.fldfs.com/fsaa/searchCatalog.aspx

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number 55.004 are provided at: https://apps.fldfs.com/fsaa/searchCompliance.aspx

The State Projects Compliance Supplement is provided at: https://apps.fldfs.com/fsaa/compliance.aspx

EXHIBIT "A"
to Resolution R-24-53

To: Jennifer.Gaona@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

G3639

11/14/2024

CONTRACT INFORMATION

Contract:	G3639
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERMENTAL AGENCY (287.057,F.S.)
Vendor Name:	CITY OF WINTER HAVEN
Vendor ID:	F596000453027
Beginning Date of This Agreement:	11/13/2024
Ending Date of This Agreement:	12/31/2026
Contract Total/Budgetary Ceiling:	ct = $1,475,200.00
Description:	Winter Haven Airport Obstructions Clearing

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR JASON ADANK, CPA, COMPTROLLER ON 11/14/2024

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55012020129
Expansion Option:	A8
Object Code:	751000
Amount:	$1,475,200.00
Financial Project:	45194319401
Work Activity (FCT):	215
CFDA:	
Fiscal Year:	2025
Budget Entity:	55100100
Category/Category Year:	088719/25
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

Total Amount: $1,475,200.00

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

PUBLIC TRANSPORTATION GRANT AGREEMENT

Form 725-000-01
STRATEGIC DEVELOPMENT
OGC 10/24

Financial Project Number(s): (item-segment-phase-sequence)		Fund(s):	DDR	FLAIR Category:	088719
451943-1-94-01		Work Activity Code/Function:	215	Object Code:	751000
		Federal Award Identification Number (FAIN) – Transit only:	N/A	Org. Code:	55012020129
				Vendor Number:	VF596000453002
Contract Number:	G3639	Federal Award Date:	N/A		
CFDA Number:	N/A	Agency UEI Number:	N/A		
CFDA Title:	N/A				
CSFA Number:	55.004				
CSFA Title:	Aviation Grant Program				

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into _____, by and between the State of Florida, Department of Transportation, ("Department"), and City of Winter Haven, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 332.007, Florida Statutes, to enter into this Agreement.

2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Winter Haven Airport Obstructions Clearing, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.

3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

   X **Aviation**
   __ **Seaports**
   __ **Transit**
   __ **Intermodal**
   __ **Rail Crossing Closure**
   __ **Match to Direct Federal Funding** (Aviation or Transit)
   (Note: Section 15 and Exhibit G do not apply to federally matched funding)
   __ **Other**

4. **Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

   X Exhibit A: Project Description and Responsibilities
   X Exhibit B: Schedule of Financial Assistance
   __ *Exhibit B1: Deferred Reimbursement Financial Provisions
   __ *Exhibit B2: Advance Payment Financial Provisions
   __ *Exhibit B3: Alternative Advanced Pay (Transit Bus Program)
   X *Exhibit C: Terms and Conditions of Construction
   X Exhibit D: Agency Resolution
   X Exhibit E: Program Specific Terms and Conditions
   X Exhibit E1: Prohibition Based on Health Care Choices
   __ Exhibit E2: Exterior Vehicle Wrap, Tinting, Paint, Marketing and Advertising (Transit)
   X Exhibit F: Contract Payment Requirements

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X *Exhibit G: Audit Requirements for Awards of State Financial Assistance
__ *Exhibit H: Audit Requirements for Awards of Federal Financial Assistance
__ *Exhibit I: Certification of Disbursement of Payment to Vehicle and/or Equipment Vendor
__ *Additional Exhibit(s):

*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

5. Time. Unless specified otherwise, all references to "days" within this Agreement refer to calendar days.

6. Term of Agreement. This Agreement shall commence upon full execution by both Parties ("Effective Date") and continue through December 31, 2026. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

a. __ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the __ day of __, or within __ days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

7. Amendments, Extensions, and Assignment. This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

8. Termination or Suspension of Project. The Department may, by written notice to the Agency, suspend any or all of the Department's obligations under this Agreement for the Agency's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

a. Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.

c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.

d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

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e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

9. Project Cost:

a. The estimated total cost of the Project is $1,844,000. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.

b. The Department agrees to participate in the Project cost up to the maximum amount of $1,475,200 and, the Department's participation in the Project shall not exceed 80.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B'', Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

10. Compensation and Payment:

a. Eligible Cost. The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A"**, **Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.

b. Deliverables. The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.

c. Invoicing. Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.

d. Supporting Documentation. Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.

e. Travel Expenses. The selected provision below is controlling regarding travel expenses:

X Travel expenses are NOT eligible for reimbursement under this Agreement.

__ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's

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Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

f. Financial Consequences. Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

g. Invoice Processing. An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

h. Records Retention. The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

i. Progress Reports. Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

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j. Submission of Other Documents. The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

k. Offsets for Claims. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

l. Final Invoice. The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.

m. Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

n. Limits on Contracts Exceeding $25,000 and Term more than 1 Year. In the event this Agreement is in excess of $25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

> "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year."

o. Agency Obligation to Refund Department. Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.

p. Non-Eligible Costs. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A"**, **Project**

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Description and Responsibilities, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A"**, **Project Description and Responsibilities.**

11. **General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

    a. **Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.

    b. **Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.

    c. **Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than $250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:

        i. Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or

        ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.

    d. __ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).

    e. __ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):

        i. __ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).

        ii. __ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.

        iii. __ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.

    f. **Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms

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and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

g. **Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

12. Contracts of the Agency:

a. **Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.

b. **Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.

c. **Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

d. **Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors

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and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

13. **Maintenance Obligations**. In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

    a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

14. **Sale, Transfer, or Disposal of Department-funded Property:**

    a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.

    b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:

        i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.

        ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.

        iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.

        iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.

    c. The terms of provisions “a” and “b” above shall survive the termination of this Agreement.

        i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.

        ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

15. **Single Audit.** The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

    Federal Funded:

    a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by

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Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:

i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit "H", Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.

ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than Federal entities).

iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at https://harvester.census.gov/facweb/ the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.

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v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
3. Wholly or partly suspend or terminate the Federal award;
4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
5. Withhold further Federal awards for the Project or program;
6. Take other remedies that may be legally available.

vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

State Funded:

a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.

b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:

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i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance,** to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).

iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0405
FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as

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applicable.

vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.

viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

16. Notices and Approvals. Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

17. Restrictions, Prohibitions, Controls and Labor Provisions:

a. Convicted Vendor List. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

b. Discriminatory Vendor List. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

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c. Non-Responsible Contractors. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

d. Prohibition on Using Funds for Lobbying. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

e. Unauthorized Aliens. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.

f. Procurement of Construction Services. If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.

g. E-Verify. The Agency shall:

i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and

ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

h. Projects with Non-profit Organizations. Pursuant to Section 216.1366. Florida Statutes, if the Agency is a nonprofit organization as defined in Section 215.97(2)(m), Florida Statutes, the Agency shall provide documentation to indicate the amount of state funds:

i. Allocated to be used during the full term of this Agreement for remuneration to any member of the board of directors or an officer of the Agency

ii. Allocated under each payment by the Department to be used for remuneration of any member of the board of directors or an officer of the Agency. The documentation must indicate the amounts and recipients of the remuneration.

Such information will be posted by the Department to the Florida Accountability Contract Tracking System maintained pursuant to Section 215.985, F.S., and must additionally be posted to the Agency's website, if the Agency is a non-profit organization and maintains a website. The Agency shall utilize the Department's Form 350-090-19, Compensation to Non-Profits Using State Funds, for purposes of documenting the compensation. The subject Form is required for every contract for services executed, amended, or extended on or after July 1, 2023, with non-profit organizations.

Pursuant to Section 216.1366, F.S., the term:

iii. "Officer" means a chief executive officer, chief financial officer, chief operating officer, or any other position performing and equivalent function.

iv. "Remuneration" means all compensation earned by or awarded to personnel, whether paid or accrued, regardless of contingency, including bonuses, accrued paid time off,

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severance payments, incentive payments, contributions to a retirement plan or in-kind payments, reimbursements, or allowances for moving expenses, vehicles and other transportation, telephone services, medical services, housing and meals.

v. "State Funds" means funds paid from the General Revenue Fund or any state trust fund, funds allocated by the Federal Government and distributed by the state, or funds appropriated by the Federal Government and distributed by the state, or funds appropriated by the state fo distribution through any grant program. The term does not include funds used for the Medicaid program.

i. Design Services and Construction Engineering and Inspection Services. If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

18. Indemnification and Insurance:

a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the Agency shall indemnify, defend, and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the Department's or the Agency's sovereign immunity. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the Department's or the Agency's sovereign immunity. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify, defend, and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include

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operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.

c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than $2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than $6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.

e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

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19. Miscellaneous:

a. Environmental Regulations. The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.

b. Non-Admission of Liability. In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

c. Severability. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

d. Agency not an agent of Department. The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.

e. Bonus or Commission. By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

f. Non-Contravention of State Law. Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

g. Execution of Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.

h. Federal Award Identification Number (FAIN). If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).

i. Inspector General Cooperation. The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

j. Law, Forum, and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

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PUBLIC TRANSPORTATION GRANT AGREEMENT

AGENCY City of Winter Haven

By: _____

Name: _____

Title: _____

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: _____

Name: Nicole E. Mills, P.E.

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
Legal Review:

Don Conway, Senior Attorney (as to form and legality)

DS
DC

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EXHIBIT A

Project Description and Responsibilities

A. Project Description (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): Winter Haven Airport Obstructions Clearing

B. Project Location (limits, city, county, map): Winter Haven Regional Airport/Winter Haven, FL/Polk

C. Project Scope (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): As required by 215.971, F.S., this scope of work includes but is not limited to consultant and design fees, survey costs, permitting, construction inspection costs, mobilization and demobilization, maintenance of traffic, demolition, mitigation, marking, and lighting (conduits, cables, and fixtures). It includes all materials, equipment, labor, and incidentals required to complete the project. The Sponsor will comply with Aviation Program Assurances.

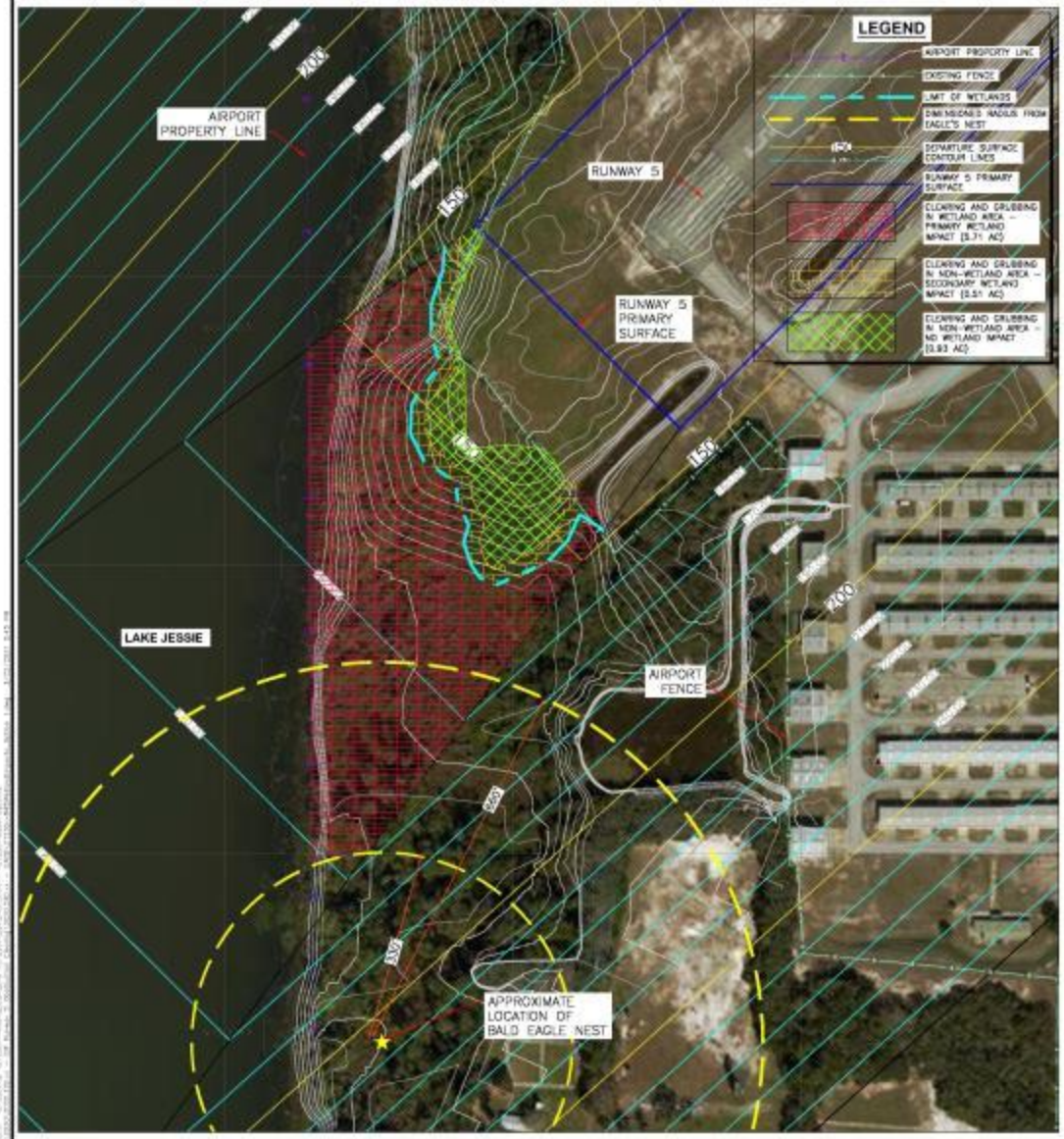
D. Deliverable(s):

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

E. Unallowable Costs (including but not limited to):

F. Transit Operating Grant Requirements (Transit Only):

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.



North

0' 50' 100' 200'

GRAPHIC SCALE IN FEET

PRELIMINARY ESTIMATE OF PROBABLE CONSTRUCTION COST

ITEM NUMBER	SID ITEM	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	ESTIMATED TOTAL
1	M-100-1	MOBILIZATION	LS	1	$ 10,000.00	$ 10,000.00
2	M-102-1	SAFETY, SECURITY AND MAINTENANCE OF TRAFFIC	LS	1	$ 5,000.00	$ 5,000.00
3	M-102-2	SAFETY, PHASING AND CONSTRUCTION PLAN	LS	1	$ 5,000.00	$ 5,000.00
4	P-151-1	CLEARING & GRUBBING - WETLAND AREAS	AC	3.71	$ 25,000.00	$ 142,150.00
5	P-151-2	CLEARING & GRUBBING - NON-WETLAND AREAS	AC	1.44	$ 15,000.00	$ 21,600.00
6	P-151-3	DEBRIS REMOVAL	LS	1	$ 10,000.00	$ 10,000.00
7	P-151-4	DEMUCKING	CY	10,000	$ 25.00	$ 250,000.00
8	P-152-1	EXCAVATION & EMBANKMENT	CY	40,000	$ 10.00	$ 400,000.00
9	P-156-1	TEMPORARY AIR AND WATER POLLUTION, SOIL EROSION, AND SILTATION CONTROL	LS	1	$ 10,000.00	$ 10,000.00
10	F-162-1	CHAIN LINK FENCE REMOVAL AND RELOCATION	LS	1	$ 15,000.00	$ 15,000.00
11	T-904-1	SODDING	SY	35,000	$ 3.50	$ 105,000.00
					SUBTOTAL:	$ 1,004,350.00
12	SID-1	WETLAND MITIGATION CREDITS* - PRIMARY IMPACTS (3.94 CREDITS)	EA	3.94	$ 165,000.00	$ 382,800.00
13	SID-2	WETLAND MITIGATION CREDITS* - SECONDARY IMPACTS (0.15 CREDITS)	EA	0.15	$ 165,000.00	$ 24,250.00
					SUBTOTAL:	$ 1,431,400.00
					10% CONTINGENCY:	$ 107,400.00
					CONSTRUCTION TOTAL:	$ 1,544,840.00

*PLEASE NOTE: THE ESTIMATED MITIGATION COST IS BASED ON THE PURCHASE OF MITIGATION CREDITS FROM THE ACCESS ROAD RELOCATION PROJECT. THE ACTUAL MITIGATION COST WILL BE DETERMINED DURING THE DESIGN AND PERMITTING PHASE OF THIS PROJECT. PRICES AND AVAILABILITY OF WETLAND MITIGATION BANK CREDITS ARE SUBJECT TO CHANGE. THE ESTIMATED MITIGATION CREDIT FOR PRIMARY IMPACTS HAS BEEN CALCULATED AS 53.3% OF THE PRIMARY IMPACT ACREAGE. THE ESTIMATED MITIGATION CREDIT FOR SECONDARY IMPACTS HAS BEEN CALCULATED AS 30.3% OF THE SECONDARY IMPACT ACREAGE.

WINTER HAVEN
The Chain of Lakes City

AVCON

AVCON, INC.
DESIGNERS & PLANNERS
PROFESSIONAL SEAL

RUNWAY 5 OBSTRUCTION CLEARING

WINTER HAVEN REGIONAL AIRPORT
WINTER HAVEN, FLORIDA

RUNWAY 5 OBSTRUCTION REMOVAL WETLAND IMPACTS - OPTION 1

ATTENTION
THIS DOCUMENT CONTAINS PRIVILEGED AND PROPRIETARY CONFIDENTIAL ALL OF WHICH IS RESERVED FOR/AND BY AVCON, INC. FOR USE BY THE INTENDED RECIPIENT AND FOR A SPECIFIC PURPOSE. APPROVAL FOR EXPRESS WRITTEN CONSENT OF AVCON, INC. ANY DISTRIBUTION, REPRODUCTION, OR OTHER USE OF THIS DOCUMENT IS STRICTLY PROHIBITED EXCEPT AS PROVIDED FOR IN A SEPARATE AGREEMENT.

SCALE (FT): GRAPHIC

REVISIONS:

NO.	DATE	BY	DESCRIPTION

DESIGNED BY: BSH
DRAWN BY: ACH
CHECKED BY: BSH
APPROVED BY: SS
DATE: MARCH 2021

FDOT FM NO. XXXXXX-1
FAA AIP NO. 3-12-0XXX-XXX-XXXX
AVCON PROJECT NO. 2021.239.XX
21XXXXRWSWETLANDIMPACTS_OPTION 1

DRAWING
EX. 1
SHEET 1 OF XX

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EXHIBIT B

Schedule of Financial Assistance

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

A. Fund Type and Fiscal Year:

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/ CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
451943-1-94-01	DDR	088719	2025	751000	55.004	Aviation Grant Program	$1,475,200.00
451943-1-94-01	LF	088719	2025	751000	55.004	Aviation Grant Program	$368,800.00
	Total Financial Assistance						$1,844,000.00

B. Estimate of Project Costs by Grant Phase:

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Planning	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Environmental/Design/Construction	$1,475,200.00	$368,800.00	$0.00	$1,844,000.00	80.00	20.00	0.00
Capital Equipment/ Preventative Maintenance	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Mobility Management (Transit Only)	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Totals	$1,475,200.00	$368,800.00	$0.00	$1,844,000.00			

*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

Scope Code and/or Activity Line Item (ALI) (Transit Only)	

BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Jennifer Gaona, MPA

Department Grant Manager Name

DocuSigned by:
Jennifer Gaona
23A08B2DA0DD44D...

11/19/2024 | 1:54 PM EST

Signature Date

Docusign Envelope ID: DA6F45AA-C0DB-47B7-8E63-F4E742F305AE

EXHIBIT C

TERMS AND CONDITIONS OF CONSTRUCTION

1. Design and Construction Standards and Required Approvals.

a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.

b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, Jennifer Gaona, MPA (email: jennifer.gaona@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.

c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.

d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).

e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.

f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

2. Construction on the Department's Right of Way. If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.

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b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.

c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.

d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is __.

e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.

f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.

g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.

h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

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estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S.

i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.

j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.

k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.

l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.

m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.

n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.

o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.

p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,

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without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.

q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.

s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.

t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation):

u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)

3. **Engineer's Certification of Compliance.** The Agency shall complete and submit and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

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ENGINEER'S CERTIFICATION OF COMPLIANCE

PUBLIC TRANSPORTATION GRANT AGREEMENT
BETWEEN
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and _____

PROJECT DESCRIPTION: _____

DEPARTMENT CONTRACT NO.: _____

FINANCIAL MANAGEMENT NO.: _____

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: _____, P.E.

SEAL:

Name: _____

Date: _____

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EXHIBIT D

AGENCY RESOLUTION

PLEASE SEE ATTACHED

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EXHIBIT E

PROGRAM SPECIFIC TERMS AND CONDITIONS - AVIATION
AVIATION PROGRAM ASSURANCES

A. General.

1. The assurances herein shall form an integral part of the Agreement between the Department and the Agency.

2. These assurances delineate the obligations of the Parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit "A", Project Description and Responsibilities**, and **Exhibit "B", Schedule of Financial Assistance**, as well as serving to protect public investment in public-use airports and the continued viability of the Florida Aviation System.

3. The Agency shall comply with the assurances as specified in this Agreement.

4. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for an airport development or noise compatibility program project, but shall not exceed 20 years from the effective date of this Agreement.

5. There shall be no limit on the duration of the terms and assurances of this Agreement regarding Exclusive Rights and Airport Revenue so long as the property is used as a public airport.

6. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by this Agreement.

7. Subject to appropriations, the Department shall continue to comply with its financial commitment to this Project under the terms of this Agreement, until such time as the Department may determine that the Agency has failed to comply with the terms and assurances of this Agreement.

8. An Agency that has been determined by the Department to have failed to comply with either the terms of these Assurances, or the terms of the Agreement, or both, shall be notified, in writing, by the Department, identifying the specifics of the non-compliance and any corrective action by the Agency to remedy the failure.

9. Failure by the Agency to satisfactorily remedy the non-compliance shall absolve the Department's continued financial commitment to this Project and immediately require the Agency to repay the Department the full amount of funds expended by the Department on this Project.

10. Any history of failure to comply with the terms and assurances of an Agreement will jeopardize the Agency's eligibility for further state funding of airport projects by the Department.

B. Agency Compliance Certification.

1. General Certification. The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and applicable local governments, as well as Department policies, guidelines, and requirements, including but not limited to, the following (latest version of each document):

a. Florida Statutes (F.S.)

- Chapter 163, F.S., Intergovernmental Programs
- Chapter 329, F.S., Aircraft: Title; Liens; Registration; Liens
- Chapter 330, F.S., Regulation of Aircraft, Pilots, and Airports
- Chapter 331, F.S., Aviation and Aerospace Facilities and Commerce
- Chapter 332, F.S., Airports and Other Air Navigation Facilities
- Chapter 333, F.S., Airport Zoning

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b. Florida Administrative Code (FAC)

- Chapter 73C-41, FAC, Community Planning; Governing the Procedure for the Submittal and Review of Local Government Comprehensive Plans and Amendments
- Chapter 14-60, FAC, Airport Licensing, Registration, and Airspace Protection
- Section 62-256.300, FAC, Open Burning, Prohibitions
- Section 62-701.320(13), FAC, Solid Waste Management Facility Permit Requirements, General, Airport Safety

c. Local Government Requirements

- Airport Zoning Ordinance
- Local Comprehensive Plan

d. Department Requirements

- Eight Steps of Building a New Airport
- Florida Airport Revenue Use Guide
- Florida Aviation Project Handbook
- Guidebook for Airport Master Planning
- Airport Compatible Land Use Guidebook

2. **Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as Federal Aviation Administration (FAA) Advisory Circulars (AC's) and FAA issued waivers thereto, including but not limited to, the following:

a. Federal Requirements

- FAA AC 70/7460-1, Obstruction Marking and Lighting
- FAA AC 150/5300-13, Airport Design
- FAA AC 150/5370-2, Operational Safety on Airports During Construction
- FAA AC 150/5370-10, Standards for Specifying Construction of Airports

b. Local Government Requirements

- Local Building Codes
- Local Zoning Codes

c. Department Requirements

- Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the "Florida Green Book")
- Manual on Uniform Traffic Control Devices
- Section 14-60.007, FAC, Airfield Standards for Licensed Airports
- Standard Specifications for Construction of General Aviation Airports
- Design Guidelines & Minimum Standard Requirements for T-Hangar Projects

3. **Land Acquisition Certification.** The Agency hereby certifies, regarding land acquisition, that it will comply with applicable federal and/or state policies, regulations, and laws, including but not limited to the following:

a. Federal Requirements

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- National Environmental Policy of 1969
- FAA Order 5050.4, National Environmental Policy Act Implementing Instructions for Airport Projects
- FAA Order 5100.37B, Land Acquisition and Relocation Assistance for Airport Projects

b. Florida Requirements

- Chapter 73, F.S., Eminent Domain (re: Property Acquired Through Condemnation)
- Chapter 74, F.S., Proceedings Supplemental to Eminent Domain (re: Condemnation)
- Section 286.23, F.S., Public Business: Miscellaneous Provisions

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C. Agency Authority.

1. **Legal Authority.** The Agency hereby certifies, with respect to this Agreement, that it has the legal authority to enter into this Agreement and commit to this Project; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the airport sponsor's governing body authorizing this Agreement, including assurances contained therein, and directing and authorizing the person identified as the official representative of the governing body to act on its behalf with respect to this Agreement and to provide any additional information as may be required.

2. **Financial Authority.** The Agency hereby certifies, with respect to this Agreement, that it has sufficient funds available for that portion of the Project costs which are not paid by the U.S. Government or the State of Florida; that it has sufficient funds available to assure future operation and maintenance of items funded by this Project, which it will control; and that authority has been granted by the airport sponsor governing body to commit those funds to this Project.

D. Agency Responsibilities. The Agency hereby certifies it currently complies with or will comply with the following responsibilities:

1. **Accounting System.**

   a. The Agency shall create and maintain a separate account to document all of the financial transactions related to the airport as a distinct entity.

   b. The accounting records shall be kept by the Agency or its authorized representative in accordance with Generally Accepted Accounting Principles and in an accounting system that will facilitate an effective audit in accordance with the 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Section 215.97, F.S., Florida Single Audit Act.

   c. The Department has the right to audit and inspect all financial records of the Agency upon reasonable notice.

2. **Good Title.**

   a. The Agency holds good title, satisfactory to the Department, to the airport or site thereof, or gives assurance, satisfactory to the Department, that good title will be obtained.

   b. For noise compatibility program projects undertaken on the airport sponsor's property, the Agency holds good title, satisfactory to the Department, to that portion of the property upon which state funds will be expended, or gives assurance, satisfactory to the Department, that good title will be obtained.

3. **Preserving Rights and Powers.**

   a. The Agency shall not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, the Agency shall act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.

   b. If an arrangement is made for management and operation of the airport by any entity or person other than the Agency or an employee of the Agency, the Agency shall reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with the terms and assurances of this Agreement.

4. **Hazard Removal and Mitigation.**

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a. For airport hazards located on airport controlled property, the Agency shall clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

b. For airport hazards not located on airport controlled property, the Agency shall work in conjunction with the governing public authority or private land owner of the property to clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards. The Agency may enter into an agreement with surrounding property owners or pursue available legal remedies to remove potential hazards to air navigation.

5. Airport Compatible Land Use.

a. The Agency assures that appropriate airport zoning ordinances are in place consistent with Section 333.03, F.S., or if not in place, that it will take appropriate action necessary to ensure local government adoption of an airport zoning ordinance or execution of an interlocal agreement with another local government body having an airport zoning ordinance, consistent with the provisions of Section 333.03, F.S.

b. The Agency assures that it will disapprove or oppose any attempted alteration or creation of objects, natural or man-made, dangerous to navigable airspace or that would adversely affect the current or future levels of airport operations.

c. The Agency assures that it will disapprove or oppose any attempted change in local land use development regulations that would adversely affect the current or future levels of airport operations by creation or expansion of airport incompatible land use areas.

6. Consistency with Local Government Plans.

a. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the airport.

b. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.

c. The Agency shall consider and take appropriate actions, if deemed warranted by the Agency, to adopt the current, approved Airport Master Plan into the local government comprehensive plan.

7. Consistency with Airport Master Plan and Airport Layout Plan.

a. The Agency assures that the project, covered by the terms and assurances of this Agreement, is consistent with the most current Airport Master Plan.

b. The Agency assures that the Project, covered by the terms and assurances of this Agreement, is consistent with the most current, approved Airport Layout Plan (ALP), which shows:

1) The boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Agency for airport purposes and proposed additions thereto;
2) The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and
3) The location of all existing and proposed non-aviation areas on airport property and of all existing improvements thereon.

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c. The Agency assures that it will not make or permit any changes or alterations on the airport or any of its facilities that are not consistent with the Airport Master Plan and the Airport Layout Plan, as approved by the Department.

d. Original Airport Master Plans and Airport Layout Plans and each amendment, revision, or modification thereof, will be subject to the approval of the Department.

8. Airport Financial Plan.

a. The Agency assures that it will develop and maintain a cost-feasible Airport financial plan to accomplish the projects necessary to achieve the proposed airport improvements identified in the Airport Master Plan and depicted in the Airport Layout Plan, and any updates thereto. The Agency's Airport financial plan must comply with the following conditions:

1) The Airport financial plan will be a part of the Airport Master Plan.
2) The Airport financial plan will realistically assess project phasing considering availability of state and local funding and likelihood of federal funding under the FAA's priority system.
3) The Airport financial plan will not include Department funding for projects that are inconsistent with the local government comprehensive plan.

b. All Project cost estimates contained in the Airport financial plan shall be entered into and kept current in the Florida Aviation Database (FAD) Joint Automated Capital Improvement Program (JACIP) website.

9. Airport Revenue. The Agency assures that all revenue generated by the airport will be expended for capital improvement or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the air transportation of passengers or property, or for environmental or noise mitigation purposes on or off the airport.

10. Fee and Rental Structure.

a. The Agency assures that it will maintain a fee and rental structure for facilities and services at the airport that it will make the airport as self-sustaining as possible under the circumstances existing at the particular airport.

b. If this Agreement results in a facility that will be leased or otherwise produce revenue, the Agency assures that the price charged for that facility will be based on the market value.

11. Public-Private Partnership for Aeronautical Uses.

a. If the airport owner or operator and a person or entity that owns an aircraft or an airport tenant or potential tenant agree that an aircraft hangar or tenant-specific facility, respectively, is to be constructed on airport property for aircraft storage or tenant use at the expense of the aircraft owner or tenant, the airport owner or operator may grant to the aircraft owner or tenant of the facility a lease that is subject to such terms and conditions on the facility as the airport owner or operator may impose, subject to approval by the Department.

b. The price charged for said lease will be based on market value, unless otherwise approved by the Department.

12. Economic Nondiscrimination.

a. The Agency assures that it will make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public.

1) The Agency may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

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2) The Agency may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

b. The Agency assures that each airport Fixed-Based Operator (FBO) shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport and utilizing the same or similar facilities.

13. Air and Water Quality Standards. The Agency assures that all projects involving airport location, major runway extension, or runway location will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

14. Operations and Maintenance.

a. The Agency assures that the airport and all facilities, which are necessary to serve the aeronautical users of the airport, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation, as well as minimum standards established by the Department for State of Florida licensing as a public-use airport.

1) The Agency assures that it will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
2) Except in emergency situations, any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Department.
3) The Agency assures that it will have arrangements for promptly notifying airmen of any condition affecting aeronautical use of the airport.

b. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when adverse weather conditions interfere with safe airport operations.

15. Federal Funding Eligibility.

a. The Agency assures it will take appropriate actions to maintain federal funding eligibility for the airport and it will avoid any action that renders the airport ineligible for federal funding.

b. If the Agency becomes ineligible for federal funding of airport projects, such determination will render the Agency ineligible for state funding of airport projects.

16. Project Implementation.

a. The Agency assures that it will begin making expenditures or incurring obligations pertaining to this Project within one year after the effective date of this Agreement.

b. The Agency may request a one-year extension of this one-year time period, subject to approval by the Department District Secretary or designee.

c. Failure of the Agency to make expenditures, incur obligations or receive an approved extension may allow the Department to terminate this Agreement.

17. Exclusive Rights. The Agency assures that it will not permit any exclusive right for use of the airport by any person providing, or intending to provide, aeronautical services to the public.

18. Airfield Access.

a. The Agency assures that it will not grant or allow general easement or public access that opens onto or crosses the airport runways, taxiways, flight line, passenger facilities, or any area used for emergency

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equipment, fuel, supplies, passengers, mail and freight, radar, communications, utilities, and landing systems, including but not limited to flight operations, ground services, emergency services, terminal facilities, maintenance, repair, or storage, except for those normal airport providers responsible for standard airport daily services or during special events at the airport open to the public with limited and controlled access.

b. The Agency assures that it will not grant or allow general easement or public access to any portion of the airfield from adjacent real property which is not owned, operated, or otherwise controlled by the Agency without prior Department approval.

19. Retention of Rights and Interests. The Agency will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the real property shown as airport owned or controlled on the current airport layout plan without prior written approval by the Department. It will not sell, lease, encumber, terminate, waive, or otherwise transfer or dispose of any part of its title, rights, or other interest in existing noise easements or avigation easements on any property, airport or non-airport, without prior written approval by the Department. These assurances shall not limit the Agency's right to lease airport property for airport-compatible purposes.

20. Consultant, Contractor, Scope, and Costs.

a. The Department has the right to disapprove the Agency's employment of consultants, contractors, and subcontractors for all or any part of this Project if the specific consultants, contractors, or subcontractors have a record of poor project performance with the Department.

b. Further, the Department maintains the right to disapprove the proposed Project scope and cost of professional services.

21. Planning Projects. For all planning projects or other aviation studies, the Agency assures that it will:

a. Execute the project per the approved project narrative or with approved modifications.

b. Furnish the Department with such periodic project and work activity reports as indicated in the approved scope of services.

c. Make such project materials available for public review, unless exempt from public disclosure.

1) Information related to airport security is considered restricted information and is exempt from public dissemination per Sections 119.071(3) and 331.22 F.S.
2) No materials prepared under this Agreement shall be subject to copyright in the United States or any other country.

d. Grant the Department unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Agreement.

e. If the Project involves developing an Airport Master Plan or an Airport Layout Plan, and any updates thereto, it will be consistent with provisions of the Florida Aviation System Plan, will identify reasonable future growth of the airport and the Agency will comply with the Department airport master planning guidebook, including:

1) Provide copies, in electronic and editable format, of final Project materials to the Department, including computer-aided drafting (CAD) files of the Airport Layout Plan.
2) Develop a cost-feasible financial plan, approved by the Department, to accomplish the projects described in the Airport Master Plan or depicted in the Airport Layout Plan, and any updates thereto. The cost-feasible financial plan shall realistically assess Project phasing considering availability of state and local funding and federal funding under the FAA's priority system.
3) Enter all projects contained in the cost-feasible plan in the Joint Automated Capital Improvement Program (JACIP).

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f. The Agency understands and agrees that Department approval of this Agreement or any planning material developed as part of this Agreement does not constitute or imply any assurance or commitment on the part of the Department to approve any pending or future application for state aviation funding.

g. The Agency will submit master planning draft and final deliverables for Department and, if required, FAA approval prior to submitting any invoices to the Department for payment.

22. Land Acquisition Projects. For the purchase of real property, the Agency assures that it will:

a. Laws. Acquire the land in accordance with federal and/or state laws governing such action.

b. Administration. Maintain direct control of Project administration, including:

1) Maintain responsibility for all related contract letting and administrative procedures related to the purchase of real property.
2) Secure written Department approval to execute each agreement for the purchase of real property with any third party.
3) Ensure a qualified, State-certified general appraiser provides all necessary services and documentation.
4) Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
5) Establish a Project account for the purchase of the land.
6) Collect and disburse federal, state, and local project funds.

c. Reimbursable Funds. If funding conveyed by this Agreement is reimbursable for land purchase in accordance with Chapter 332, F.S., the Agency shall comply with the following requirements:

1) The Agency shall apply for a FAA Airport Improvement Program grant for the land purchase within 60 days of executing this Agreement.
2) If federal funds are received for the land purchase, the Agency shall notify the Department, in writing, within 14 calendar days of receiving the federal funds and is responsible for reimbursing the Department within 30 calendar days to achieve normal project federal, state, and local funding shares per Chapter 332, F.S.
3) If federal funds are not received for the land purchase, the Agency shall reimburse the Department within 30 calendar days after the reimbursable funds are due in order to achieve normal project state and local funding shares as described in Chapter 332, F.S.
4) If federal funds are not received for the land purchase and the state share of the purchase is less than or equal to normal state and local funding shares per Chapter 332, F.S., when reimbursable funds are due, no reimbursement to the Department shall be required.

d. New Airport. If this Project involves the purchase of real property for the development of a new airport, the Agency assures that it will:

1) Apply for federal and state funding to construct a paved runway, associated aircraft parking apron, and connecting taxiway within one year of the date of land purchase.
2) Complete an Airport Master Plan within two years of land purchase.
3) Complete airport construction for basic operation within 10 years of land purchase.

e. Use of Land. The Agency assures that it shall use the land for aviation purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.

f. Disposal of Land. For the disposal of real property the Agency assures that it will comply with the following:
1) For land purchased for airport development or noise compatibility purposes, the Agency shall, when the land is no longer needed for such purposes, dispose of such land at fair market value and/or make available to the Department an amount equal to the state's proportionate share of its market value.

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2) Land will be considered to be needed for airport purposes under this assurance if:

a) It serves aeronautical purposes such as a runway protection zone or as a noise buffer.
b) Revenue from uses of such land contributes to airport financial self-sufficiency.

3) Disposition of land under Sections D.22.f.1. or D.22.f.2. of this Exhibit, above, shall be subject to retention or reservation of any interest or right therein needed to ensure such land will only be used for purposes compatible with noise levels related to airport operations.
4) Revenues from the sale of such land must be accounted for as outlined in Section D.1. of this Exhibit, and expended as outlined in Section D.9. of this Exhibit.

23. Construction Projects. The Agency assures that it will:

a. Project Certifications. Certify Project compliances, including:

1) Consultant and contractor selection comply with all applicable federal, state and local laws, rules, regulations, and policies.
2) All design plans and specifications comply with federal, state, and professional standards and applicable FAA advisory circulars, as well as the minimum standards established by the Department for State of Florida licensing as a public-use airport.
3) Completed construction complies with all applicable local building codes.
4) Completed construction complies with the Project plans and specifications with certification of that fact by the Project Engineer.

b. Design Development. For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer, which are hereinafter collectively referred to as "plans", the Engineer will certify that:

1) The plans shall be developed in accordance with sound engineering and design principles, and with generally accepted professional standards.
2) The plans shall be consistent with the intent of the Project as defined in Exhibit A and Exhibit B of this Agreement.
3) The Project Engineer shall perform a review of the certification requirements listed in Section B.2. of this Exhibit, Construction Certification, and make a determination as to their applicability to this Project.
4) Development of the plans shall comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

c. Inspection and Approval. The Agency assures that:

1) The Agency will provide and maintain competent technical supervision at the construction site throughout the Project to assure that the work conforms to the plans, specifications, and schedules approved by the Department, as applicable, for the Project.
2) The Agency assures that it will allow the Department to inspect the work and that it will provide any cost and progress reporting, as may be required by the Department.
3) The Agency assures that it will take the appropriate corrective action necessary, as required by the Department, for work which does not conform to the Department standards.

d. Pavement Preventive Maintenance. The Agency assures that for a project involving replacement or reconstruction of runway or taxiway pavement it has implemented an airport pavement maintenance management program and that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with state financial assistance at the airport.

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24. Noise Mitigation Projects. The Agency assures that it will:

a. Government Agreements. For all noise compatibility projects that are carried out by another unit of local government or are on property owned by a unit of local government other than the Agency, the Agency shall enter into an agreement with that government body.

1) The local agreement, satisfactory to the Department, shall obligate the unit of local government to the same terms and assurances that apply to the Agency.
2) The Agency assures that it will take steps to enforce the local agreement if there is substantial non-compliance with the terms of the local agreement.

b. Private Agreements. For noise compatibility projects on privately owned property:

1) The Agency shall enter into an agreement with the owner of that property to exclude future actions against the airport.
2) The Agency assures that it will take steps to enforce such agreement if there is substantial non-compliance with the terms of the agreement.

- End of Exhibit E -

Docusign Envelope ID: DA6F45AA-C0DB-47B7-8E63-F4E742F305AE

Exhibit E1

PROGRAM SPECIFIC TERMS AND CONDITIONS

(Prohibition on Discrimination Based on Health Care Choices)

This exhibit forms an integral part of the Agreement between the Department and the Agency.

1. **Statutory Reference.** Section 339.08, F.S. and Section 381.00316, F.S.

2. **Statutory Compliance.** Pursuant to Section 339.08, F.S., the Department may not expend state funds to support a project or program of certain entities if the entity is found to be in violation of Section 381.00316, F.S. The Department shall withhold state funds until the entity is found to be in compliance with Section 381.00316, F.S. This shall apply to any of the following entities:

    a. A public transit provider as defined in s. 341.031(1), F.S.;
    b. An authority created pursuant to chapter 343, F.S., chapter 348, F.S., or chapter 349, F.S.; c. A public-use airport as defined in s. 332.004, F.S.; or
    d. A port listed in s. 311.09(1), F.S.

- End of Exhibit E1 -

Docusign Envelope ID: DA6F45AA-C0DB-47B7-8E63-F4E742F305AE

EXHIBIT F

Contract Payment Requirements
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf.

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EXHIBIT G

AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~

Awarding Agency: Florida Department of Transportation
State Project Title: Aviation Grant Program
CSFA Number: 55.004
***Award Amount:** $1,475,200

*The award amount may change with amendments

Specific project information for CSFA Number 55.004 is provided at: https://apps.fldfs.com/fsaa/searchCatalog.aspx

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number 55.004 are provided at: https://apps.fldfs.com/fsaa/searchCompliance.aspx

The State Projects Compliance Supplement is provided at: https://apps.fldfs.com/fsaa/compliance.aspx

Docusign Envelope ID: DA6F45AA-C0DB-47B7-8E63-F4E742F305AE

To: Jennifer.Gaona@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

G3639

11/14/2024

CONTRACT INFORMATION

Contract:	G3639
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERMENTAL AGENCY (287.057,F.S.)
Vendor Name:	CITY OF WINTER HAVEN
Vendor ID:	F596000453027
Beginning Date of This Agreement:	11/13/2024
Ending Date of This Agreement:	12/31/2026
Contract Total/Budgetary Ceiling:	ct = $1,475,200.00
Description:	Winter Haven Airport Obstructions Clearing

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR JASON ADANK, CPA, COMPTROLLER ON 11/14/2024

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55012020129
Expansion Option:	A8
Object Code:	751000
Amount:	$1,475,200.00
Financial Project:	45194319401
Work Activity (FCT):	215
CFDA:	
Fiscal Year:	2025
Budget Entity:	55100100
Category/Category Year:	088719/25
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

Total Amount: $1,475,200.00

DATE: November 25, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Eric Labbe, Economic Opportunity and Community Investment Director
Sean Byers, Planning Manager

FROM: Chris Young, Senior Planner

SUBJECT: Resolution R-24-54: Request by KRPC Willowbrook, LLC for final plat approval of the Willowbrook South Subdivision. General Location: Subdivision is generally located north of Martin Luther King Jr. Boulevard and south of the Lake Fannie/Lake Smart Canal.

BACKGROUND

KRPC Willowbrook, LLC is requesting final plat approval for Willowbrook South. The 152-acre subdivision tract is generally located north of Martin Luther King Jr. Boulevard and south of the Lake Fannie/Lake Smart Canal. The applicant has requested that portions of several underlying plats to be vacated/abandoned.

The single-family residential subdivision contains 234 building lots and ten (10) common lots consisting of stormwater retention, open space areas, lift-stations, and rights-of-way dedication for a future collector road connecting Martin Luther King Boulevard and Lucerne Park Road. Internal roadways are contained within 40-foot rights-of-way and will be dedicated to the Willowbrook Community Development District (CDD). All water, reuse, and sewer utilities will be owned and maintained by the City, while all drainage conveyances, internal roadways, and street lighting will be maintained by the CDD.

A performance bond issued by Lexon Insurance Company in the amount of $4,315,750.45 has been submitted to the City to cover the cost of remaining infrastructure items to be completed. Incomplete items include earthwork, sanitary sewer, potable water, stormwater management, and engineering certification.

CONSISTENCY WITH FUTURE LAND USE AND ZONING

Willowbrook South was developed according to the requirements contained in Planned Unit Development Ordinance O-20-04. The subdivision meets the minimum requirements established

by this ordinance. Additionally, the subdivision is consistent with the adopted Residential-Suburban Future Land Use.

INFRASTRUCTURE

Water service to the subdivision is from the Winter Haven Water System and wastewater will be treated at Wastewater Treatment Plant 2. There is adequate capacity in these systems to serve this subdivision. Access to the subdivision is from Martin Luther King Jr. Boulevard and eventually Lucerne Park Road (SR 544) through a future rights-of-way dedication. These roadways have sufficient capacity to serve this subdivision upon build-out.

STRATEGIC PLAN ALIGNMENT

This is an approval of a final subdivision plat and is not specifically defined as a goal or strategy in the Strategic Plan. However, it is generally aligned with the Economic Sustainability and Responsible Government Pillars.

FINANCIAL IMPACT

Using an estimated taxable value of $300,000 per lot, this subdivision will have an estimated taxable value of $117.9 million, and will generate approximately $776,961 per year in City ad valorem revenues at the anticipated millage rate of 6.59. Additional revenue will be received through the provision of City services and taxes on utilities.

CONCLUSION

The proposed subdivision is consistent with the Comprehensive Plan and all requirements of Chapter 177, Florida Statutes, for the platting of land.

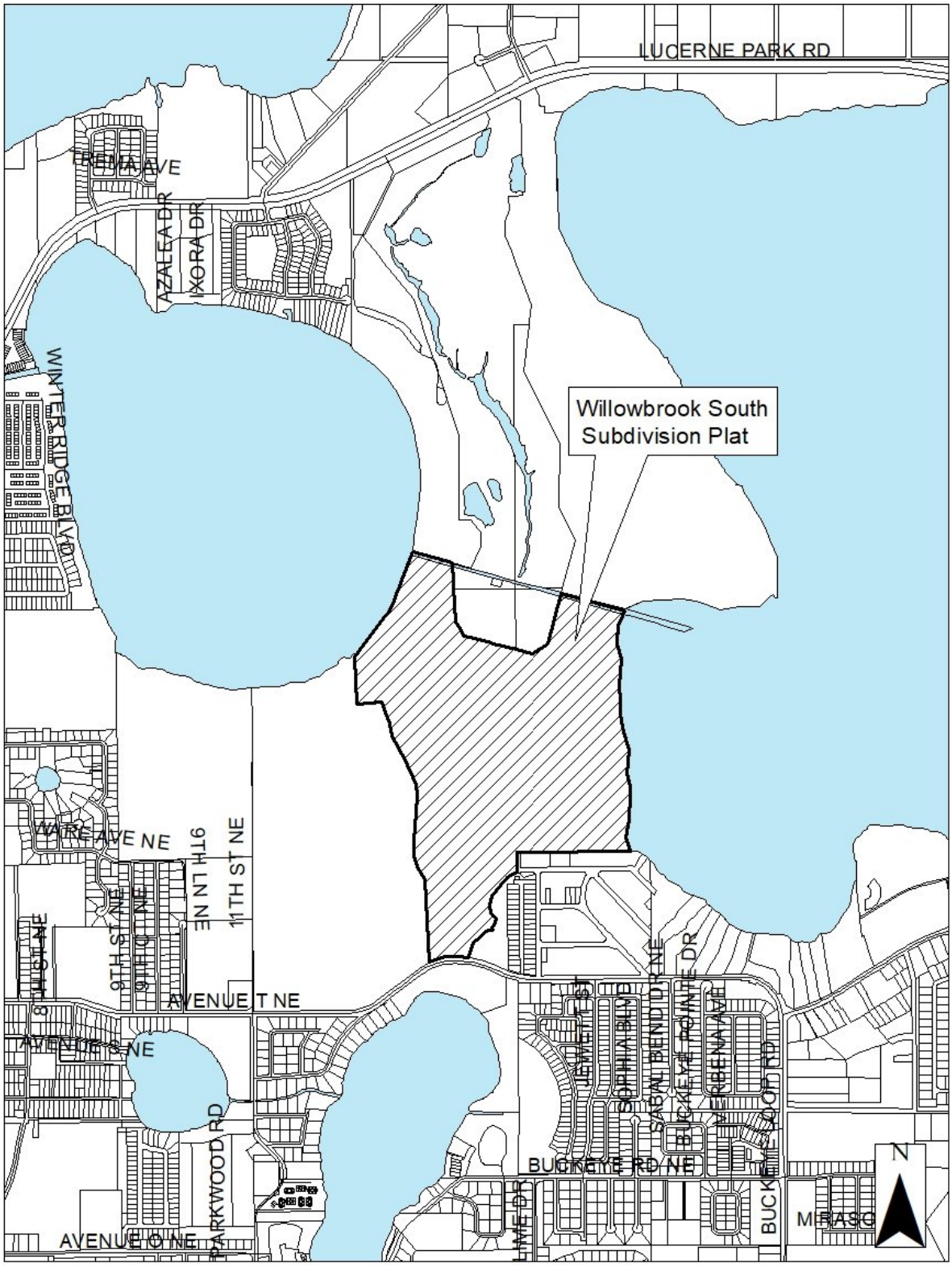
RECOMMENDATION

Staff recommends the City Commission approve Resolution R-24-54.

ATTACHMENTS

- Location Map
- Resolution R-24-54

Location Map



Space for Recording

RESOLUTION R-24-54

A RESOLUTION APPROVING THAT CERTAIN PLAT ENTITLED "WILLOWBROOK SOUTH" FOR FILING IN ACCORDANCE WITH CHAPTER 177, FLORIDA STATUTES WITH SPECIFIC CONDITIONS; PROVIDING FOR THE CORRECTION OF SCRIVENER'S ERRORS; AND ESTABLISHING AN EFFECTIVE DATE. (General location: Subdivision is generally located north of Martin Luther King Jr. Boulevard and south of the Lake Fannie/Lake Smart Canal)

WHEREAS, KRPC Willowbrook, LLC, the owner of the below described lands has submitted that certain plat entitled "Willowbrook South" for filing and acceptance by the City Commission of the City of Winter Haven in accordance with Chapter 177 of the Florida Statutes and Chapter 21 of the City of Winter Haven Code of Ordinances.

WHEREAS, in connection with the submission of that certain Plat entitled "Willowbrook South" KRPC Willowbrook, LLC. the owner of the below described lands has also petitioned for the vacation, closing, and abandonment of Lots A, B, E, F, O, J ,M-X "Washington Square", A portion of Blocks C,G, K and L of "Maysville Colony", as recorded in Plat Book 4, page 42 and a portion of lots 286 and 287 "Lucerne Park Fruit Association" as recorded in Plat Book 38, Page 67 of the Public Records of Polk County, Florida, lying in Winter Haven, Florida; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER HAVEN, FLORIDA:

1. The following portions of plats described as: Lots A, B, E, F, O, J ,M-X "Washington Square", A portion of Blocks C,G, K and L of "Maysville Colony", as recorded in Plat Book 4, page 42 and a portion of lots 286 and 287 "Lucerne Park Fruit Association" as recorded in Plat Book 38, Page 67 of the Public Records of Polk County, Florida, lying in Winter Haven, Florida are hereby vacated, closed, and abandoned and returned to acreage.

2. That certain plat entitled "Willowbrook South" and showing the following described property, to wit: See Exhibits "A" and "B" which are attached hereto and made a part hereof, was presented to the City Commission for approval on the 9th day of December, 2024. The City Commission having reviewed said plat and having been otherwise fully advised in the premises, hereby approves said plat for filing and accepts the dedications notated thereon in

accordance with Chapter 177, Florida Statutes subject to the conditions set forth herein below.

3. That KRPC Willowbrook LLC, owner of the lands described in Exhibits "A" and "B" attached hereto has submitted a Performance Bond issued by Lexon Insurance Company to the City of Winter Haven in the amount of 4,315,750 to insure completion of all required infrastructure and improvements in the subdivision shown on the plat being approved for filing herein.

4. The City of Winter Haven does not accept the utility systems for the subject lands including but not limited to water, reuse, and wastewater systems until all such systems, as may be constructed and noted on the plat, have passed all required tests, all required certifications have been obtained, and the systems are fully operational pursuant to City standards. Further, no certificates of occupancy for any structures constructed thereon will be issued until all such utility systems and other required infrastructure and improvements as required by the City of Winter Haven Code of Ordinances and applicable Florida law are fully operational and have been accepted by the City and/or appropriate entity with jurisdiction and that an acceptable Disclosure and Release Agreement in a form acceptable to the City Attorney has been executed and delivered related to those lots and parcels that abut and/or are adjacent and contiguous to the Willowbrook Golf Course.

5. The adoption of this Resolution is not intended to be an affirmative acceptance of any drainage systems notated on the Plat and/or that may exist and/or be constructed within the lands contained within the Plat being approved herein. Accordingly, the City of Winter Haven is not accepting ownership and/or responsibility for any drainage systems or internal road rights-of-way for this subdivision which shall remain the responsibility of the entity and/or individuals to whom they are dedicated on the Plat.

6. The correction of typographical and/or scrivener's errors in this Resolution which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

7. This Resolution shall take effect immediately upon passage, provided however, that a certified copy of this Resolution shall be filed with the Polk County Board of County Commissioners and with the Clerk of the Circuit Court in and for Polk County, Florida, and duly recorded in the Public Records of Polk County, Florida.

INTRODUCED AND PASSED by the City Commission of the City of Winter Haven, Florida, in regular session this 9th day of December, 2024.

CITY OF WINTER HAVEN

_____
MAYOR-COMMISSIONER
Nathaniel J. Birdsong, Jr.

ATTEST:

_____
CITY CLERK
Vanessa Castillo, MMC

Approved as to form:

_____
CITY ATTORNEY
Frederick J. Murphy, Jr.

Exhibit “A”

Location Map

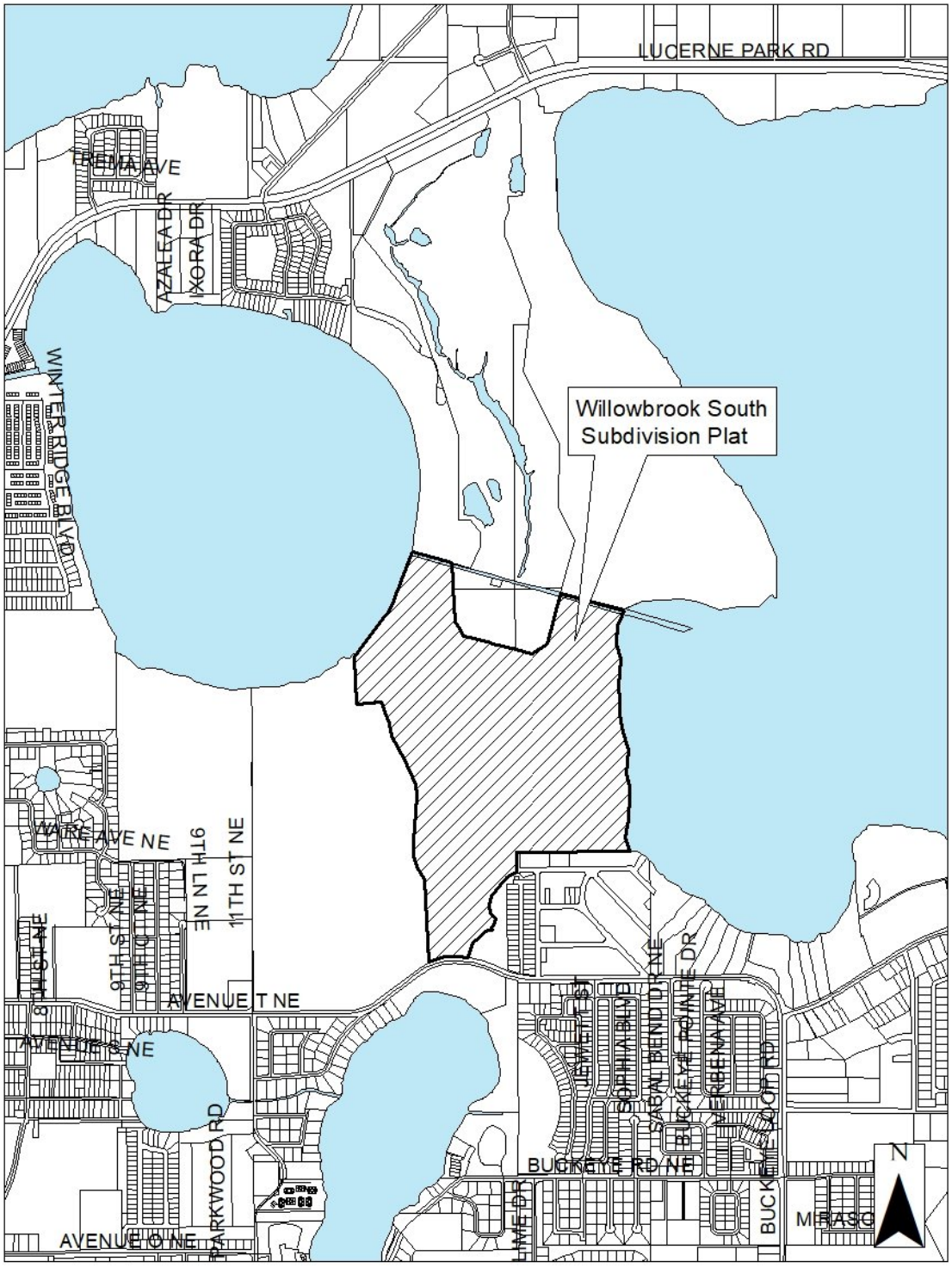


Exhibit “B”
Page 1 of 11

WILLOWBROOK SOUTH

A SUBDIVISION LYING IN SECTIONS 10 & 15 TOWNSHIP 28 SOUTH, RANGE 26 EAST, CITY OF WINTER HAVEN, POLK COUNTY, FLORIDA, BEING A REPLAT OF BLOCKS A, B, E, F, I, J, M - X, WASHINGTON SQUARE, A PORTION OF BLOCKS C, G, K, AND L OF MAYSVILLE COLONY, AS RECORDED IN PLAT BOOK 4, PAGE 42 AND A PORTION OF LOTS 286 & 287 LUCERNE PARK FRUIT ASS'N AS RECORDED IN PLAT BOOK 38, PAGE 67, BOTH OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA.

P.B.____ PG.____
SHEET 1 of 9

LEGAL DESCRIPTION:

DEDICATION
STATE OF FLORIDA
COUNTY OF POLK

CONSENT TO DEDICATION
STATE OF FLORIDA
COUNTY OF POLK

ACKNOWLEDGMENT
STATE OF FLORIDA
COUNTY OF POLK

ACKNOWLEDGMENT
STATE OF FLORIDA
COUNTY OF POLK

CITY OF WINTER HAVEN ECONOMIC OPPORTUNITY
AND COMMUNITY INVESTMENT DIRECTOR
STATE OF FLORIDA
COUNTY OF POLK

CITY SURVEYORS APPROVAL (CONSULTANT)
STATE OF FLORIDA
COUNTY OF POLK

CITY OF WINTER HAVEN CITY ENGINEER
STATE OF FLORIDA
COUNTY OF POLK

CITY OF WINTER HAVEN, FLORIDA CITY COMMISSION APPROVAL
STATE OF FLORIDA
COUNTY OF POLK

SURVEYOR'S CERTIFICATE
STATE OF FLORIDA
COUNTY OF POLK

CITY OF WINTER HAVEN CITY CLERK:
STATE OF FLORIDA
COUNTY OF POLK

CLERK OF CIRCUIT COURT:
STATE OF FLORIDA
COUNTY OF POLK

PREPARED BY:
BASEPOINT SURVEYING, INC.

Exhibit “B”
Page 2 of 11

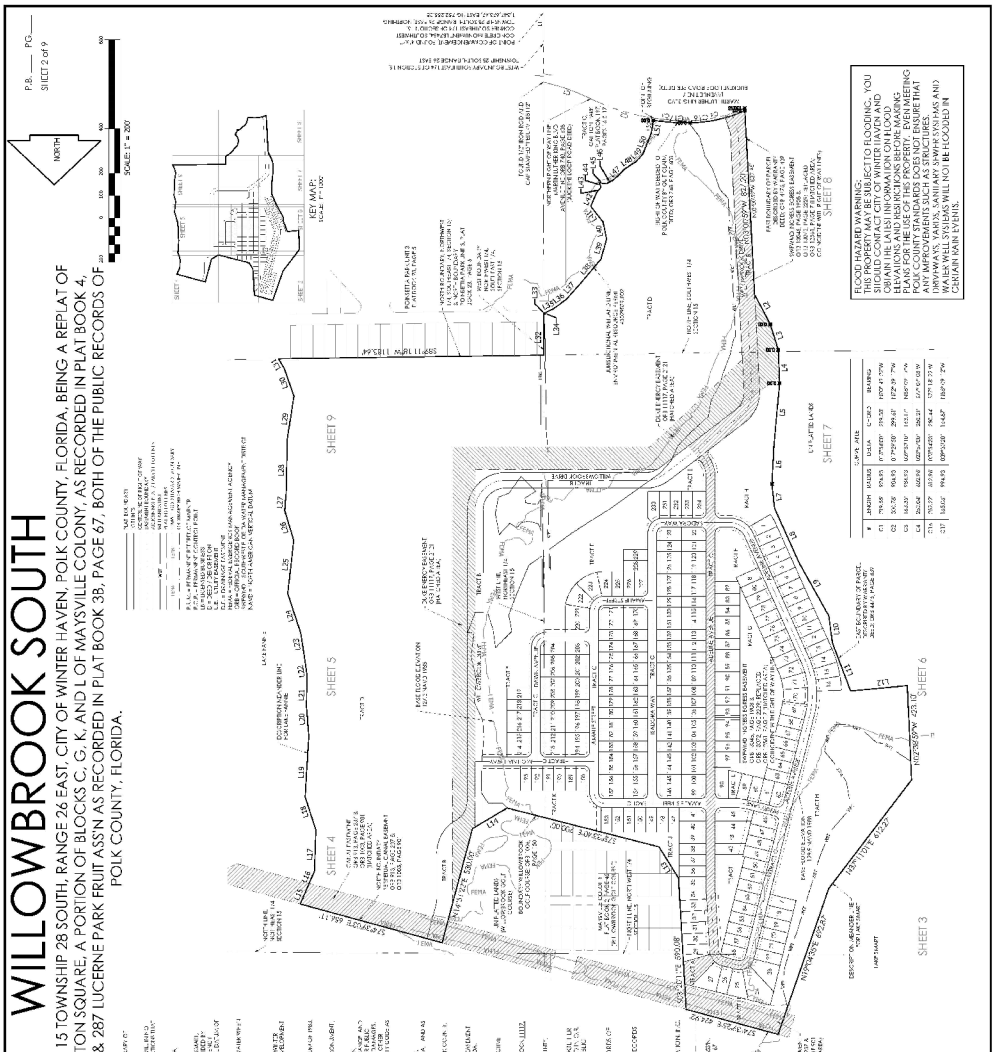


Exhibit “B”
Page 3 of 11

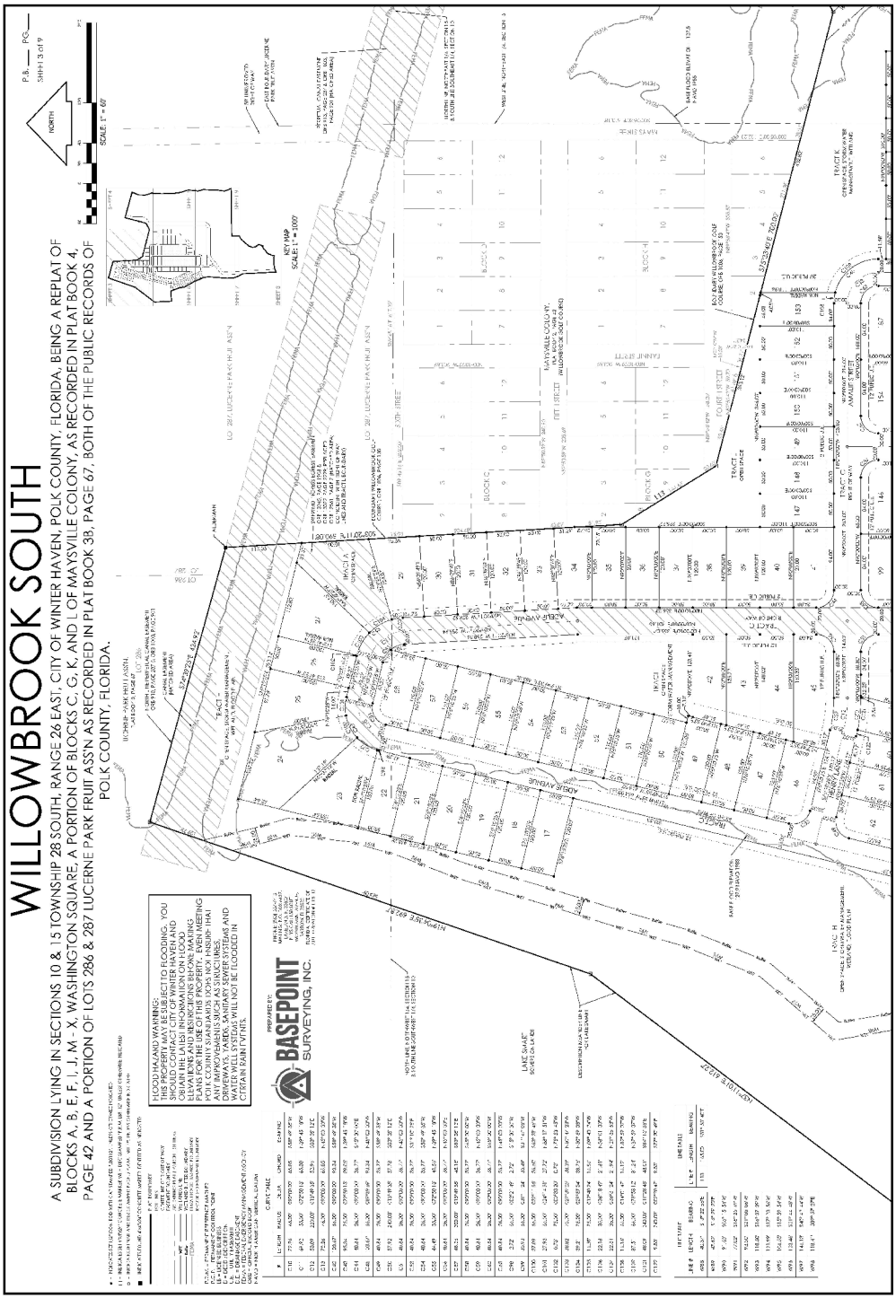
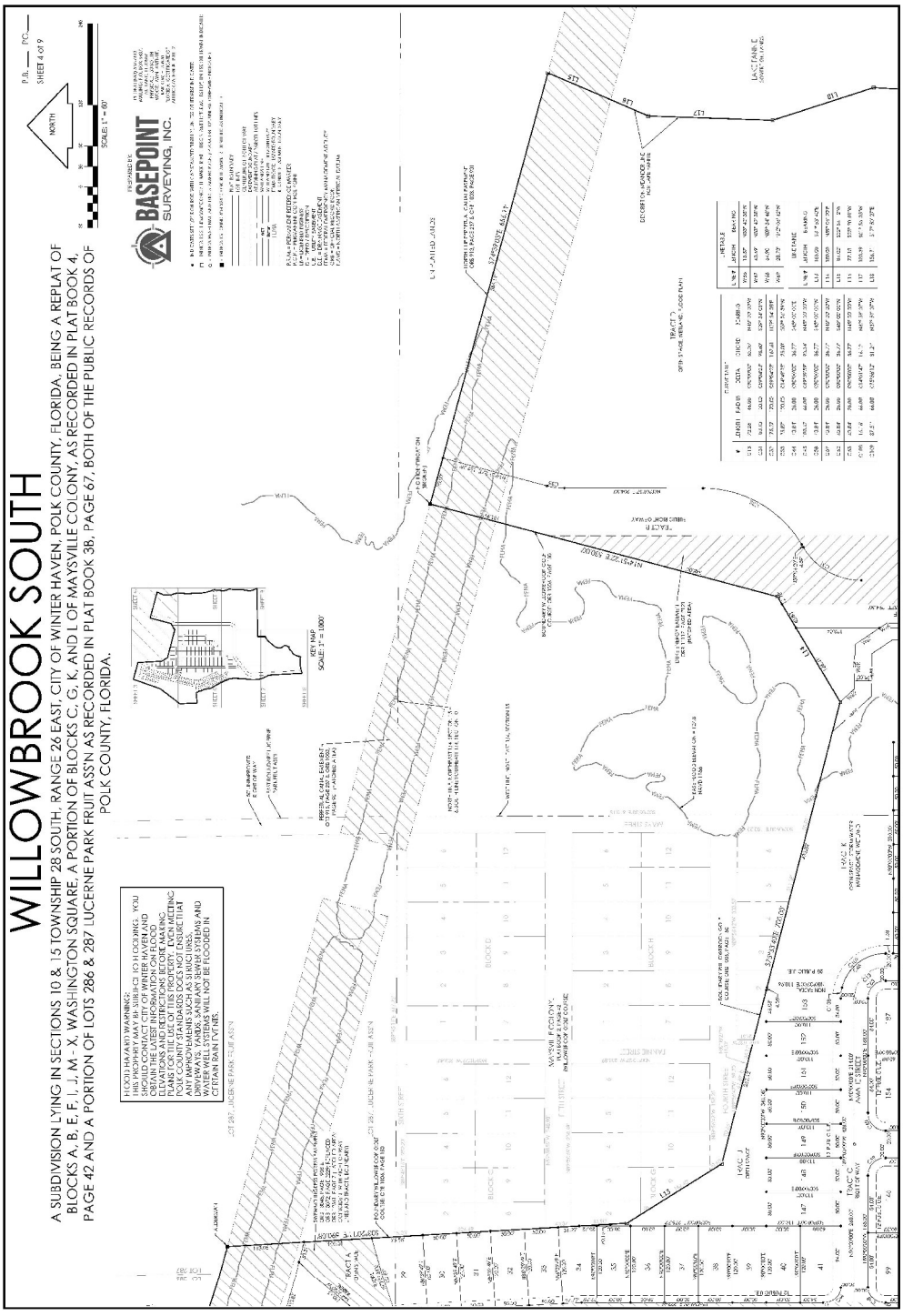


Exhibit "B"
Page 4 of 11



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Page 5 of 11

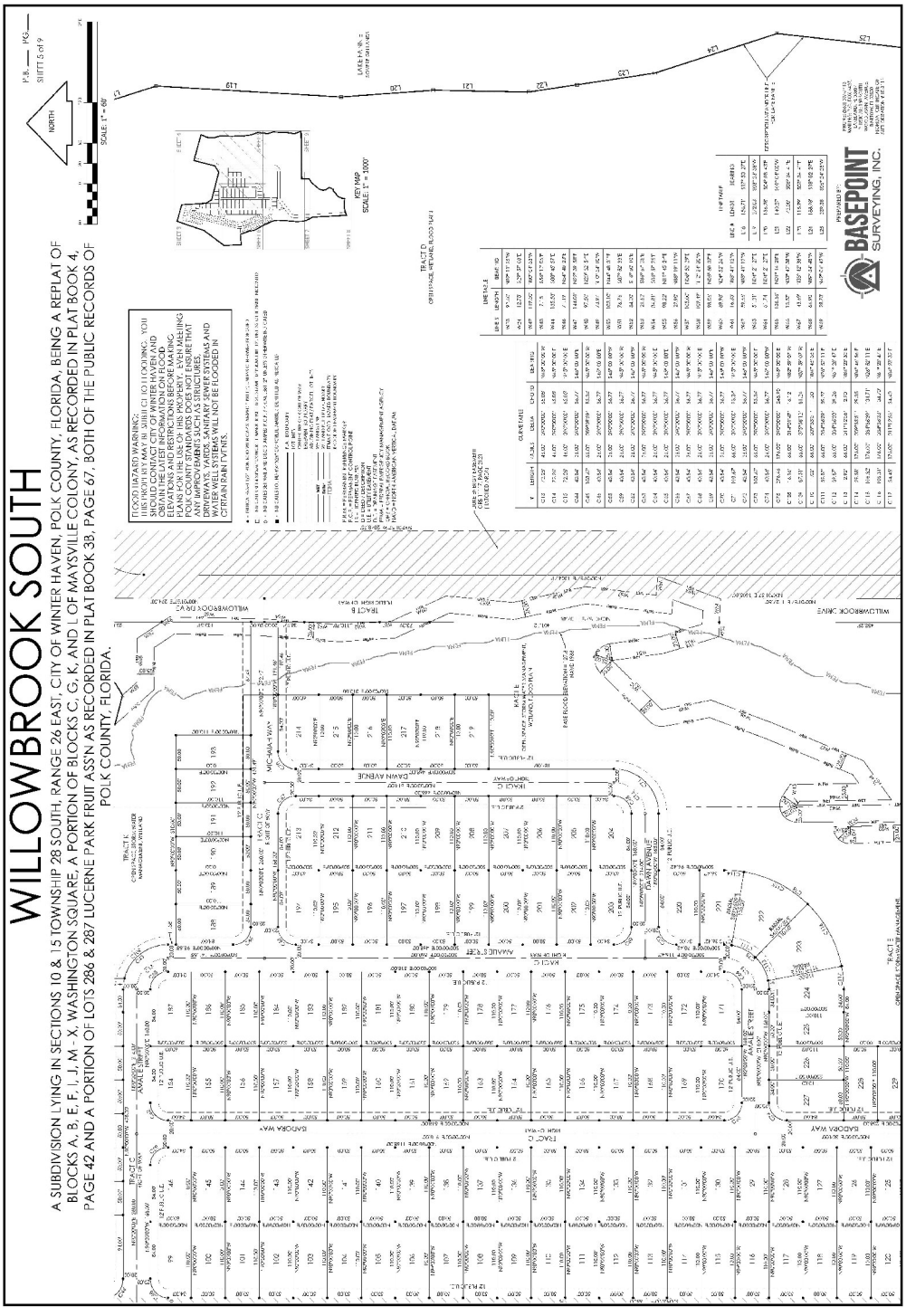


Exhibit “B”
Page 6 of 11

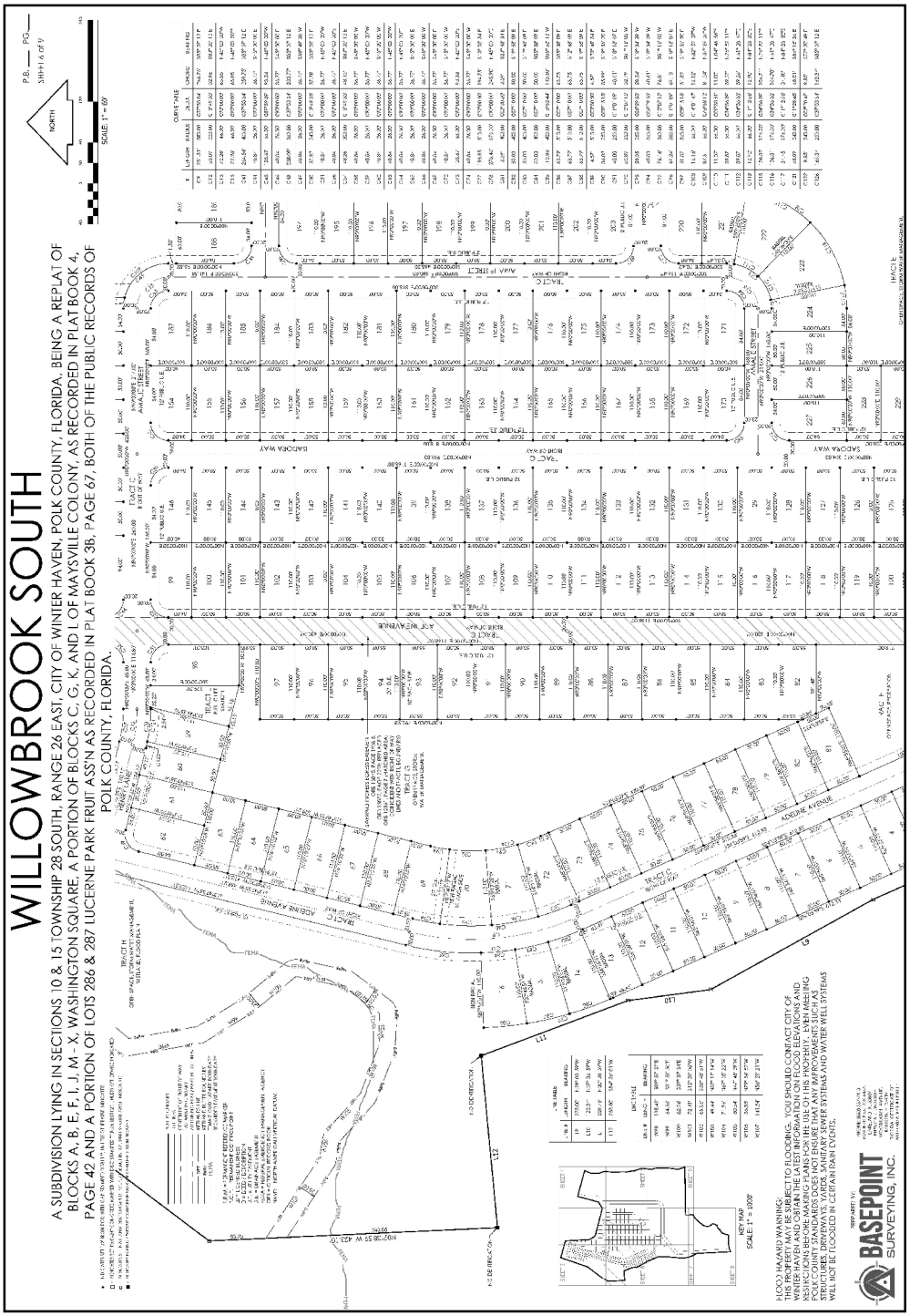
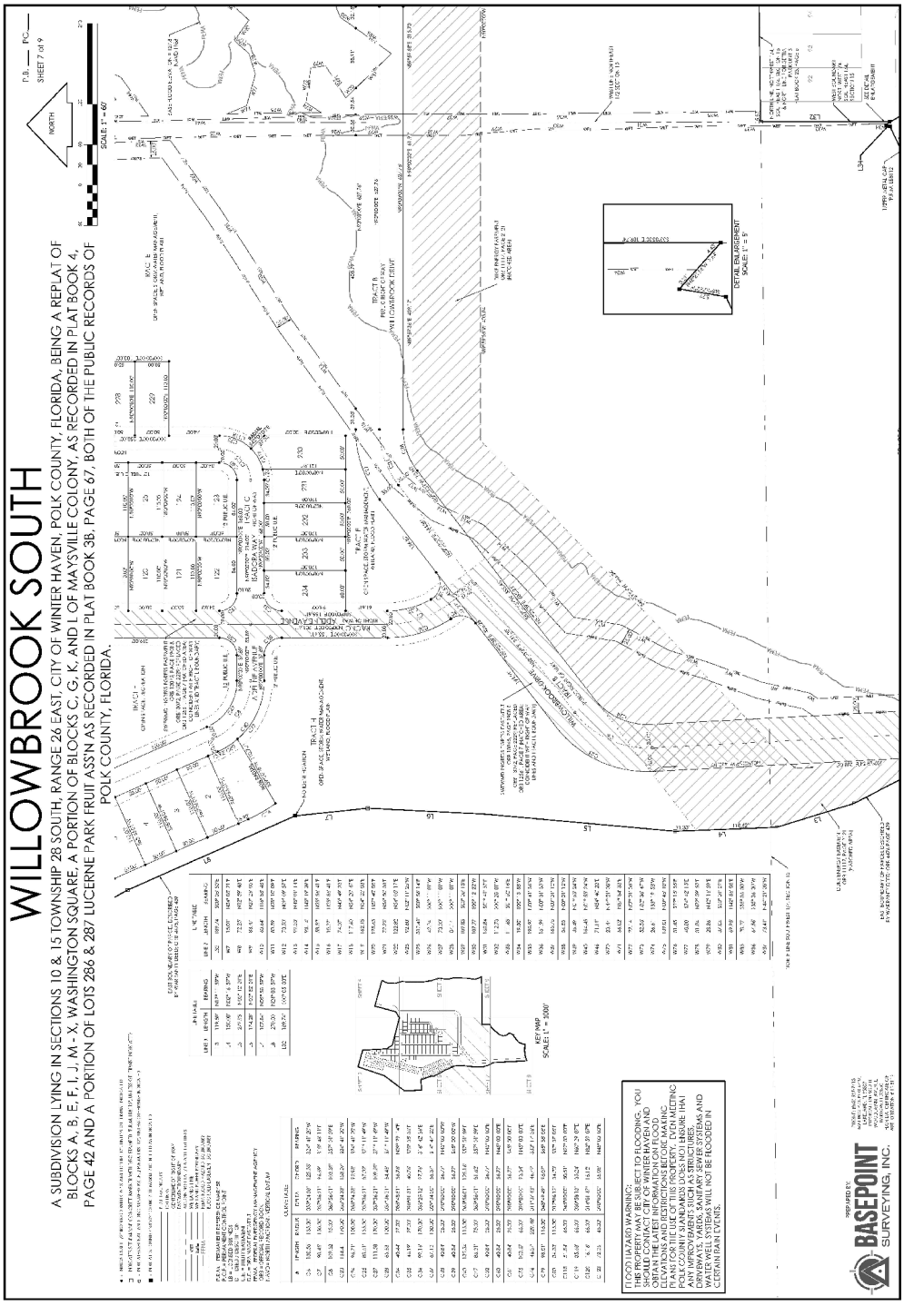


Exhibit “B”
Page 7 of 11



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Page 8 of 11

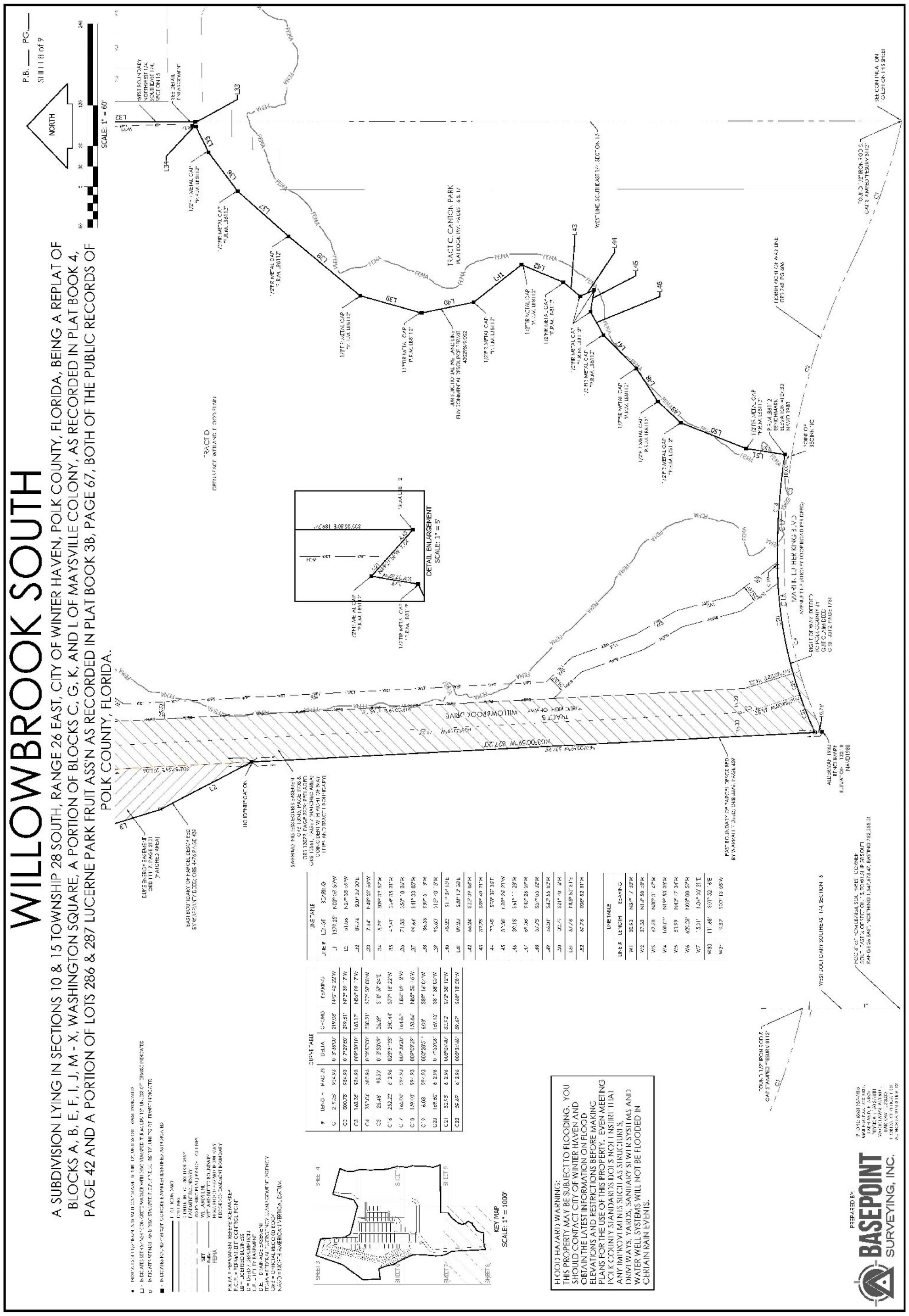
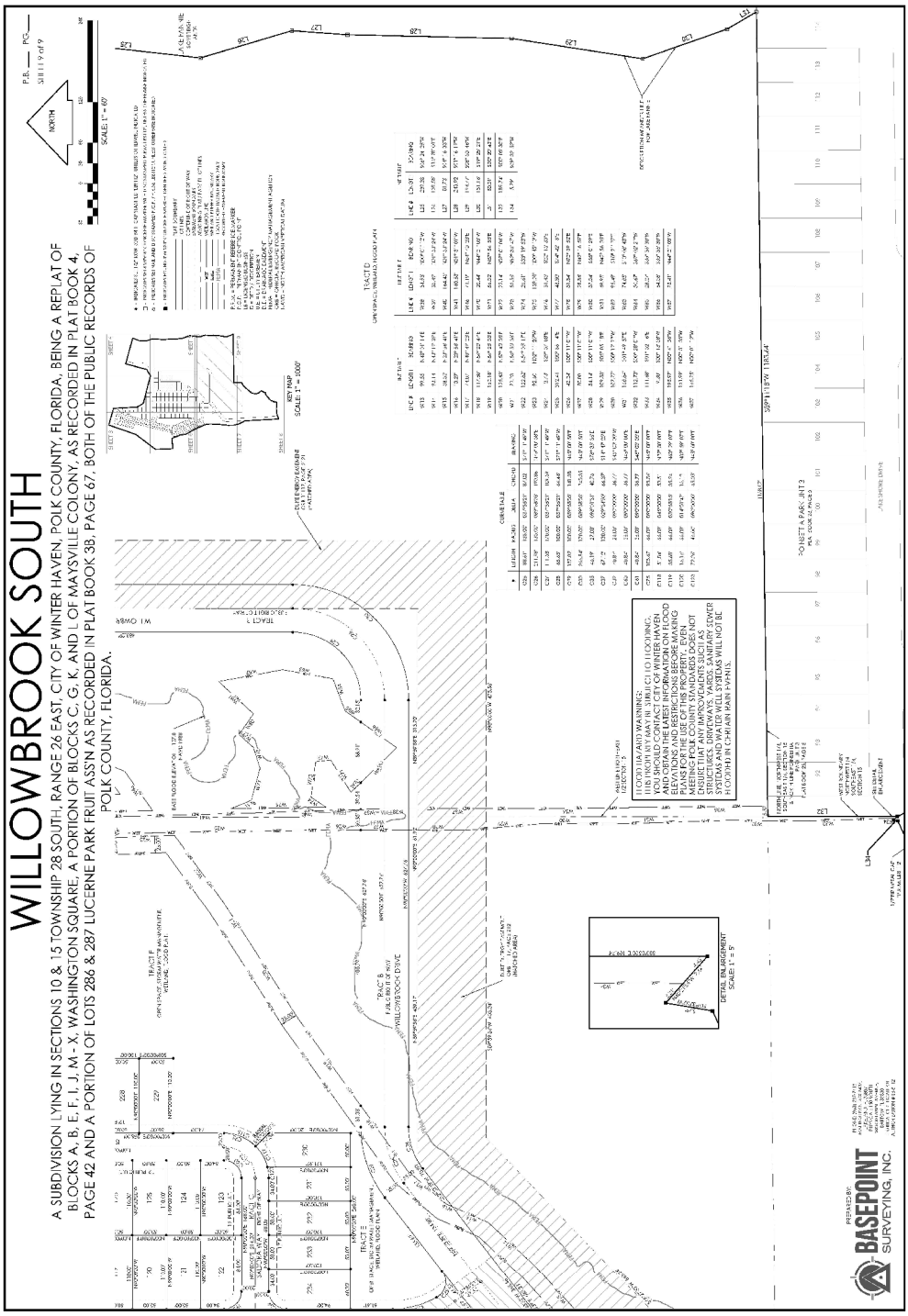


Exhibit “B”
Page 9 of 11



DATE: December 2, 2024

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Eric Labbe, Economic Opportunity and Community Investment Director

SUBJECT: Authorization to submit a grant application to the Florida Department of Commerce for construction of a rail spur.

BACKGROUND

The City of Winter Haven, working in partnership with the Winter Haven Economic Development Council, Tratt Properties, and Project Ray, has an opportunity to apply for a Job Growth Grant from the Florida Department of Commerce to facilitate the construction of a rail spur from the Winter Haven CSX Intermodal Terminal to Project Ray's proposed 41 acre site within the Intermodal Logistics Park.

The rail spur is proposed to traverse across property owned by Evansville Western Railway, Inc. to the proposed Project Ray property, within an easement to be granted to the City of Winter Haven. The spur will be approximately 4,450 feet in length with an estimated cost of $3,000,000.

The total requested Job Growth Grant amount is $1,500,000. The City of Winter Haven will contribute "in-kind" services in the form of grant/project management estimated at a value of $100,000. Tratt Properties, CSX, Evansville Western Railway, Inc., and Project Ray will fund the remaining construction cost with a combination of cash and "in-kind" services.

Project Ray has proposed the construction of a 225,000 square foot, food grade, cold storage facility with a capital investment of approximately $100,000,000. The project is anticipated to employ approximately 200 people with an estimated average wage of $65,000. Commencement of construction is currently scheduled for Q3 of 2025 with a completion date in Q2 of 2027.

FINANCIAL IMPACT:

There is no direct financial impact to the City with this request. The City's participation is limited to "in-kind" services. Upon completion, the estimated ad valorem taxable value of the project is anticipated to be between $75 and $85 Million.

STRATEGIC PLAN ALIGNMENT

This is a request to authorize the City Manager, or his designee, to apply for a grant related to the construction of rail infrastructure. It is not specifically defined as a goal or strategy within the Strategic Plan. However, it is aligned with both the Economic Sustainability and Infrastructure Pillars.

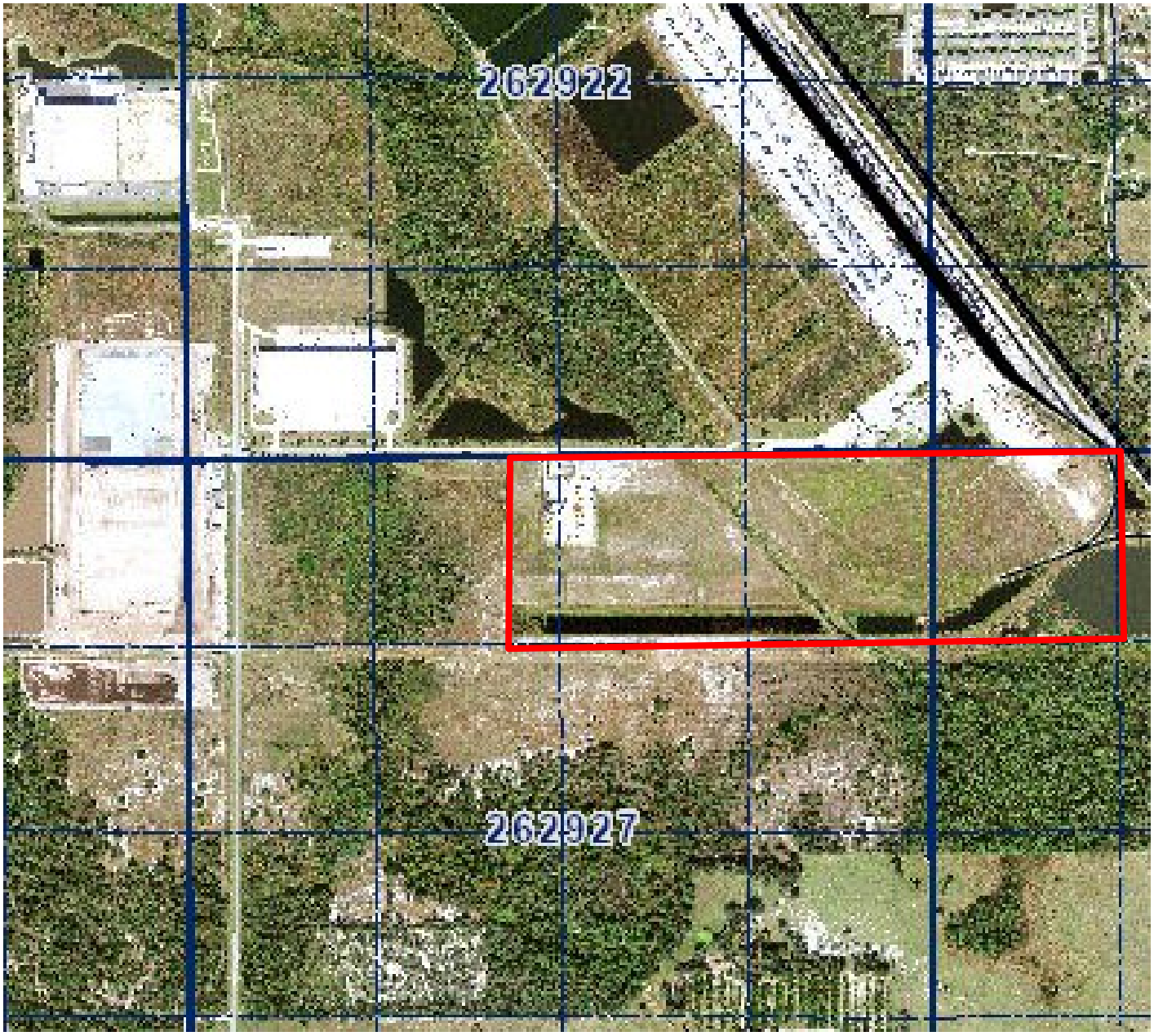
RECOMMENDATION

Staff recommends the City Commission authorize the City Manager, or his designee, to submit the Job Growth Grant application to the Florida Department of Commerce and perform all related and necessary actions related thereto.

ATTACHMENTS

- Location Map
- Guide to Complete a Public Infrastructure Proposal: Strategic Business Development (Job Growth Grant Application)

Location Map





Applicant

Guide to Complete a Public Infrastructure Proposal:
Strategic Business Development (SBD)

I. Program Overview

The Florida Job Growth Grant Fund is an economic development program designed to promote public infrastructure and workforce training across the state. Proposals are reviewed by the Florida Department of Economic Opportunity (DEO) and Enterprise Florida, Inc. (EFI) and chosen by the Governor to meet the demand for workforce or infrastructure needs in the community they are awarded to.

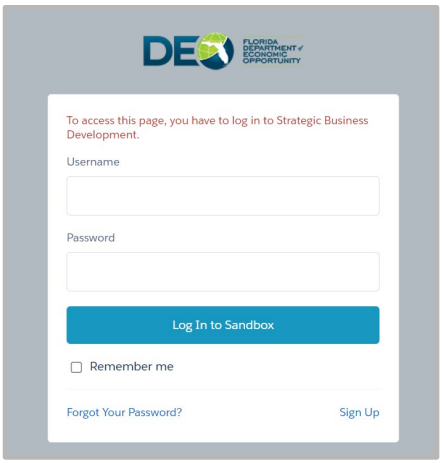
The Division of Strategic Business Development provides support for attracting out-of-state businesses to Florida, promoting the creation and expansion of Florida businesses, and facilitating Florida's economic development partnerships.

II. How to Access the SBD Portal

The SBD portal is available at "https://deosera.force.com/StrategicBusinessDevelopment"

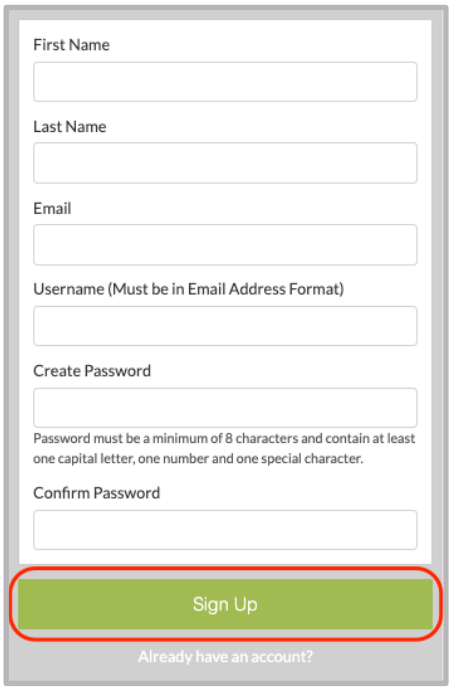
III. Applicant Login and Self-Registration

Once Applicants have navigated to the community portal web address, they will be presented with a login screen.



1. If Applicants have previously registered, they can log in by entering their username and password and then selecting "**Log In**".
2. If they have not yet registered, Applicants can click "**Sign-up**" and provide the relevant information to create an account. After creating an account, the user will be automatically logged into the SBD portal

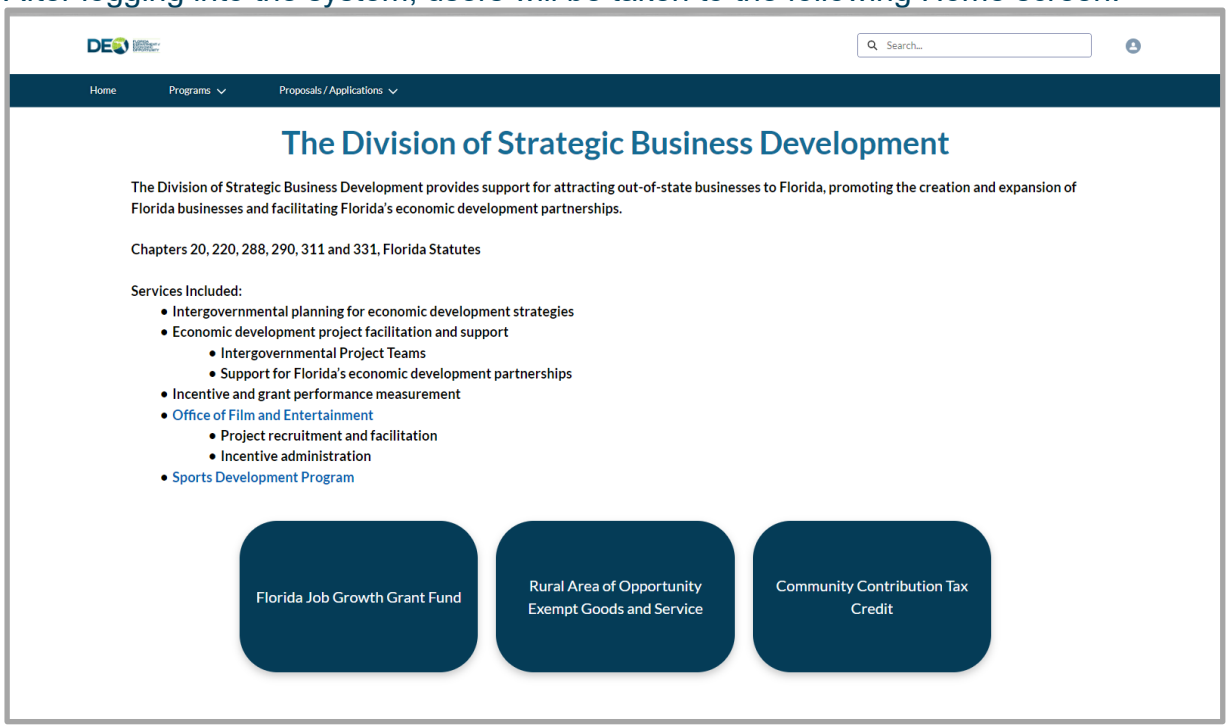
3. To create a new log-in, Applicants must complete ALL information (Name, Email, Username, Password) as shown in the image below.
    a. *Please note that the Username created must be in the format of an email address (i.e., email@customer.com). Users can use their email address as the username*.



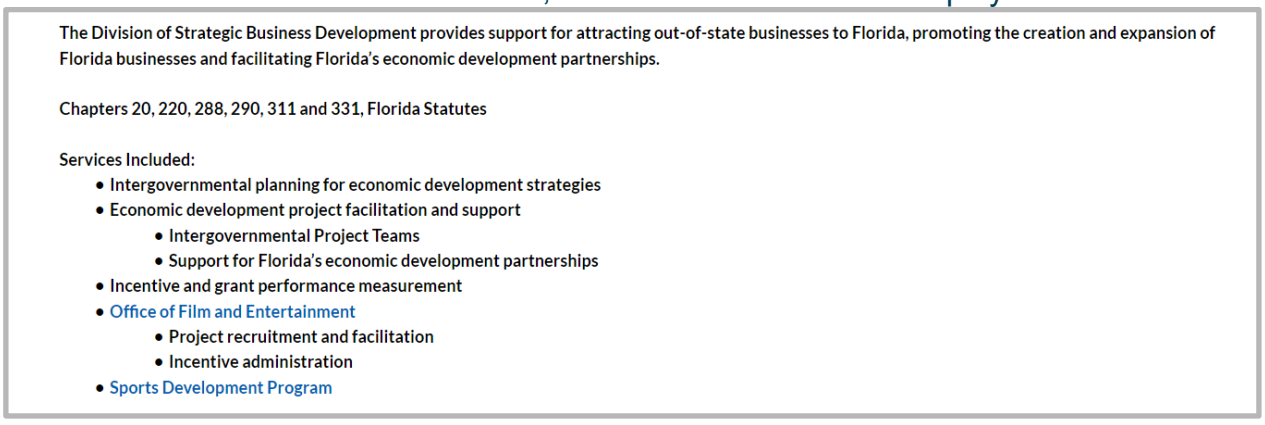
4. Users must select "**Sign Up**" to complete the registration. They will automatically be logged into the system and will also receive a confirmation email to the email address provided.

IV. Creating and Submitting Applications

After logging into the system, users will be taken to the following Home screen:



For a clearer view of the Home screen, the below information is displayed:

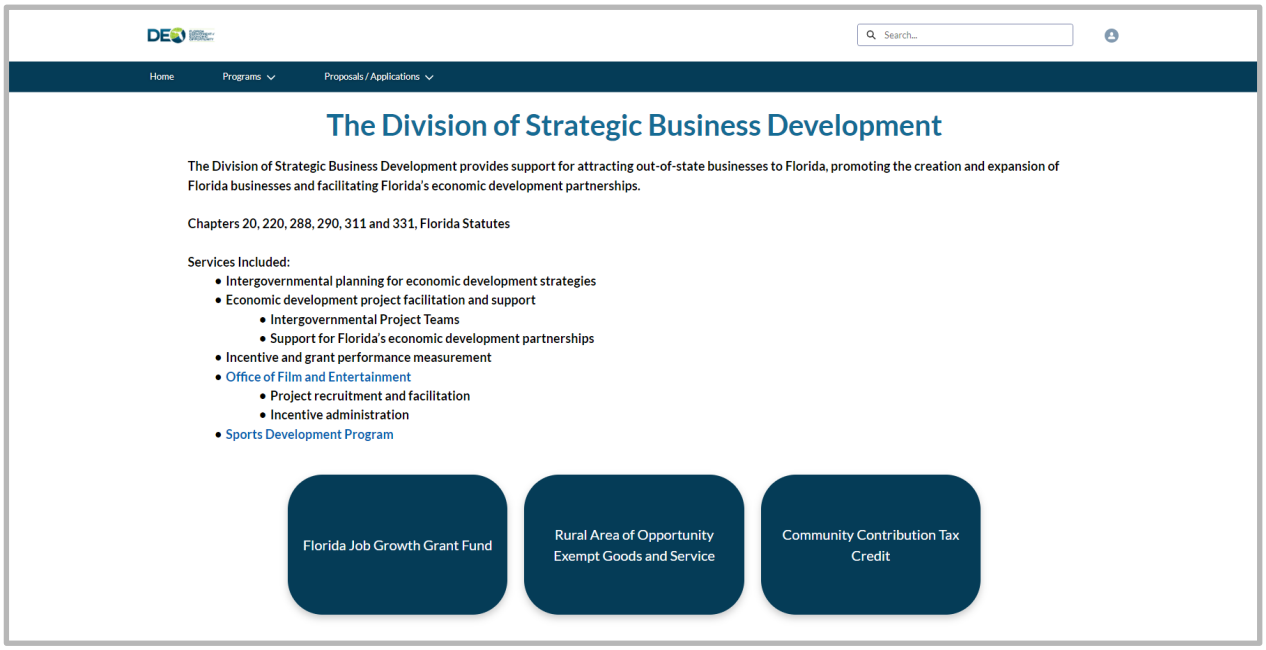


From this Home screen, users will be able to navigate to the **Florida Job Growth Grant Fund**.

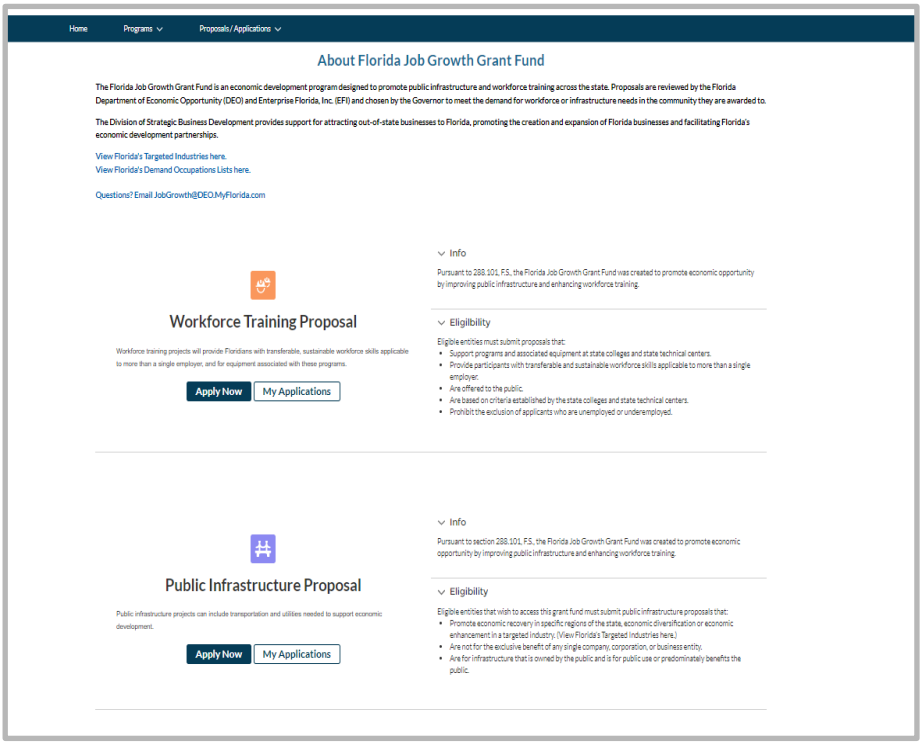
Creating a New Infrastructure Proposal

To begin the proposal process, users must select "**Florida Job Growth Fund**".

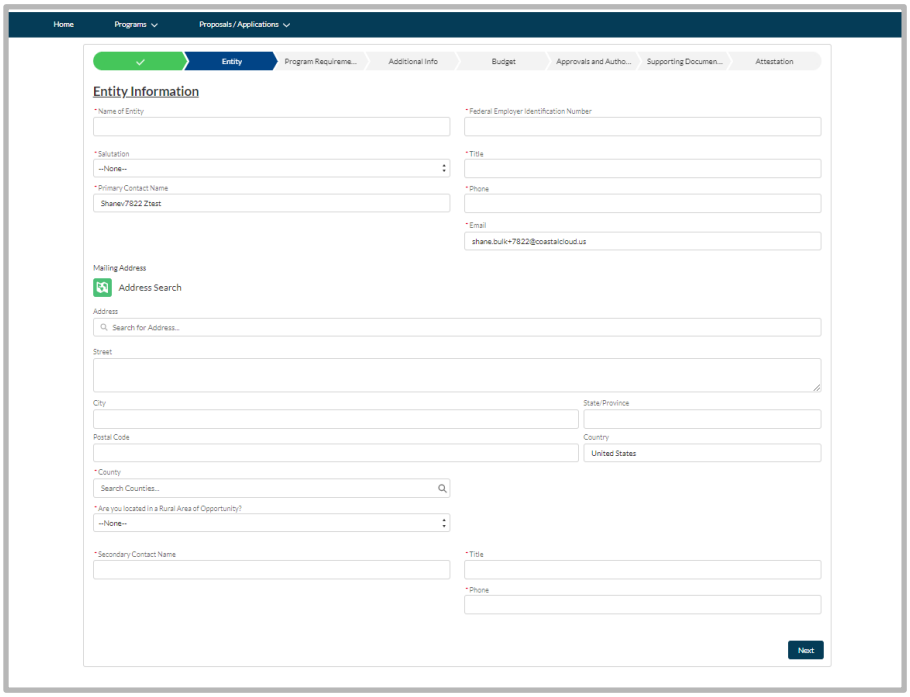
1. Click the "**Florida Job Growth Fund**" button.



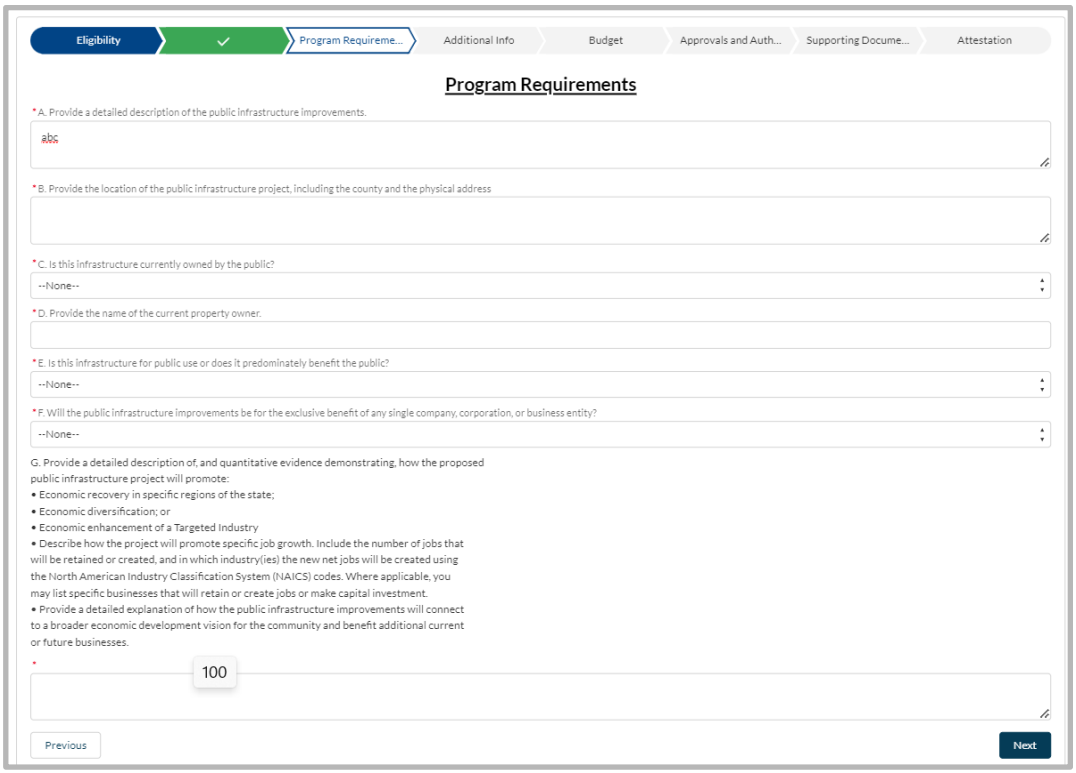
2. Click the "**Apply Now**" button under "**Public Infrastructure Proposal**" to create a new Job Growth Grant Fund proposal.



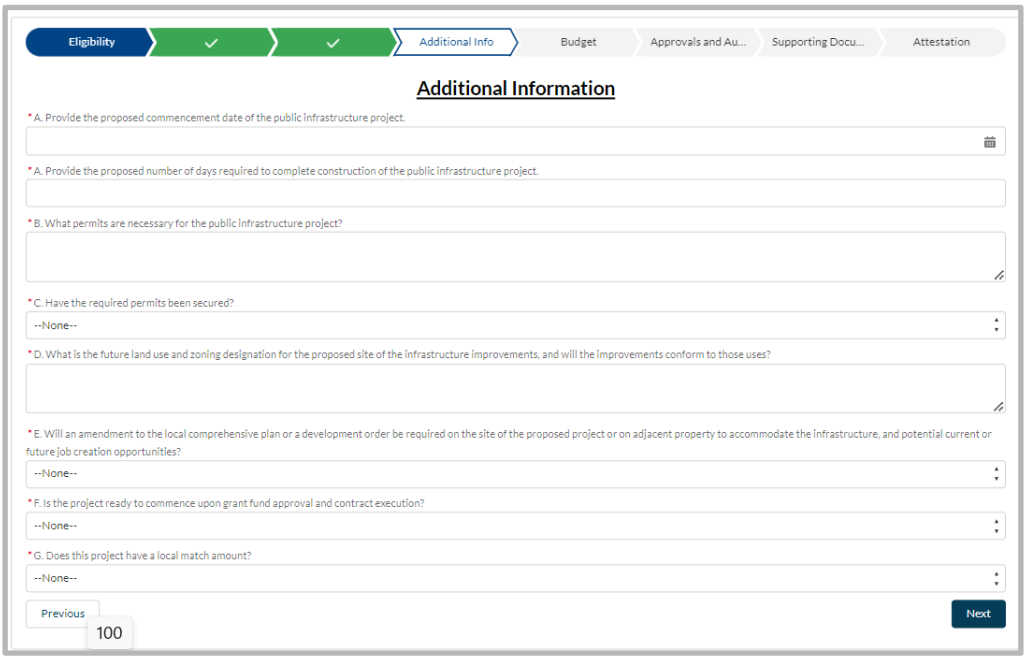
3. Users will be taken to the **Entity Information** section of the proposal.
    a. This section of the proposal requires users to provide the appropriate contact, entity, and address information.
    b. Once all information is entered, click **Next** to continue.



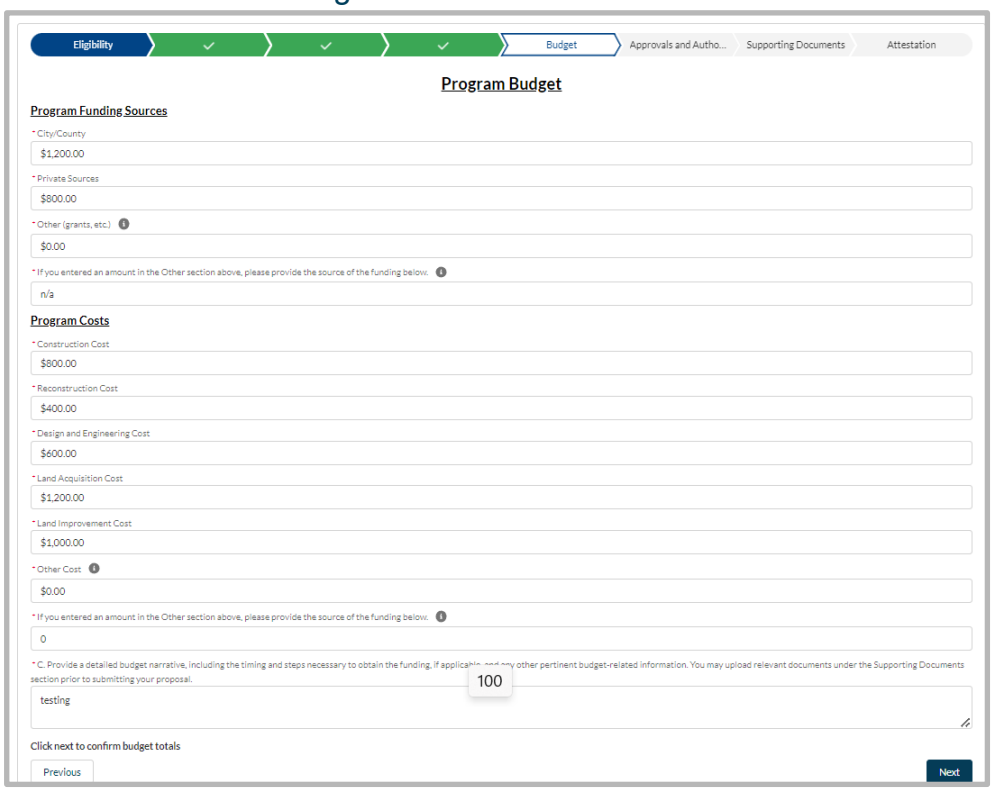
4. Users will then proceed to the **Program Requirements** section of the proposal.
    c. Here users will provide all of the information pertaining to how the program meets the requirements for a Florida Job Growth Grant.
    d. Once all the information is entered, click **Next** to continue.



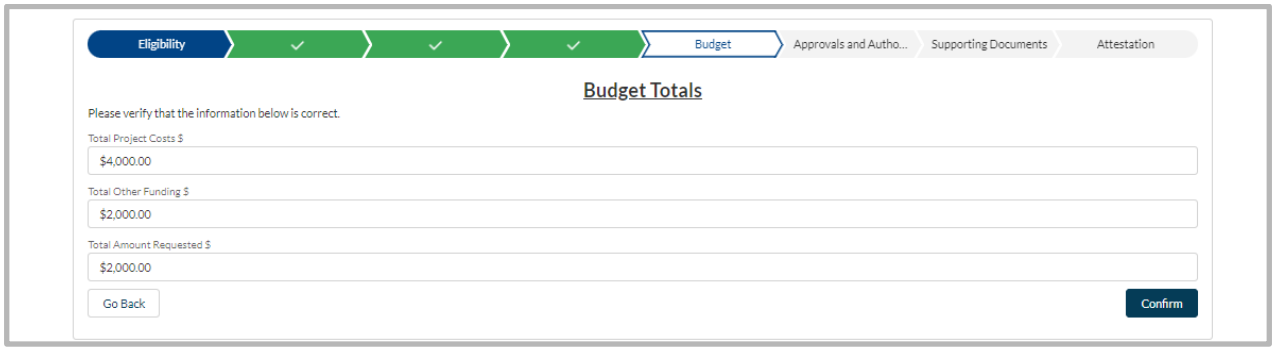
5. Now users will arrive at the **Additional Information** section.
    c. Users will provide additional information on the program requirements.
    d. Once all the information is entered, click **Next** to continue.



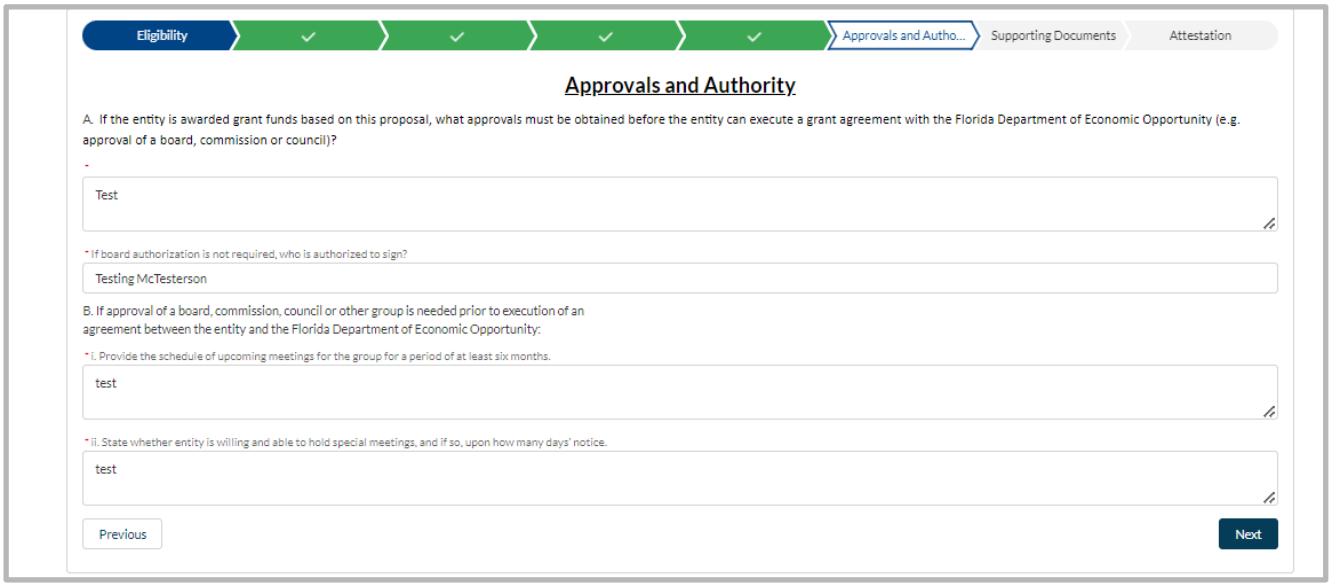
6. The next section will be the **Program Budget**.
    d. Users will provide all information pertaining to the **Project Funding Sources** and **Project Costs**.
    e. After all the information has been entered, click **Next** to confirm the budget totals on the following screen.



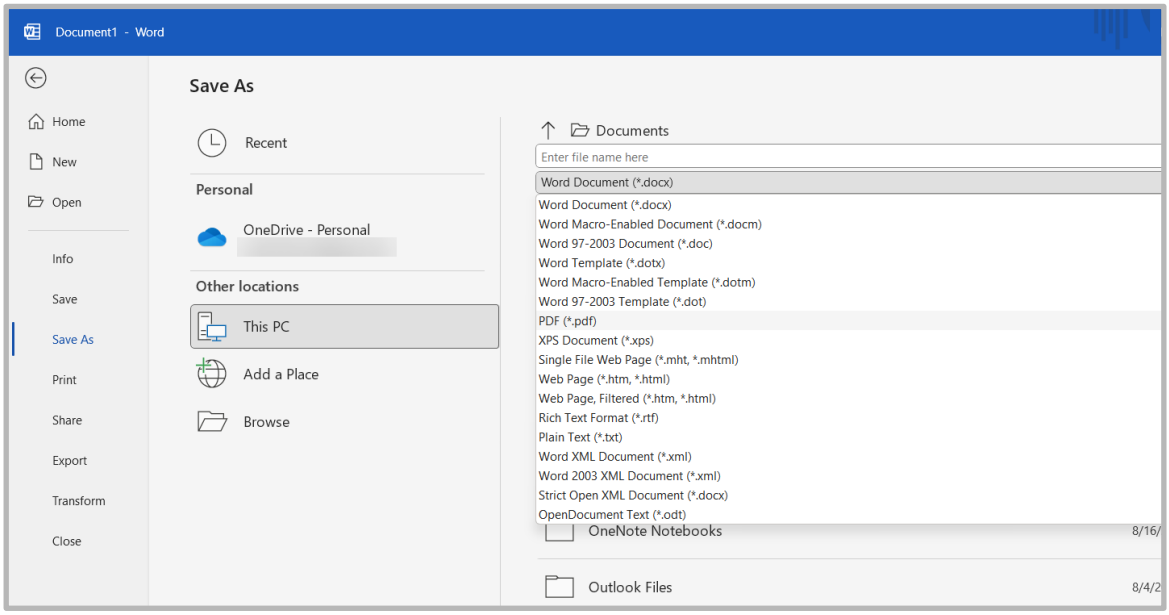
    f. Once users have confirmed the budget totals to be correct, press **Confirm**.



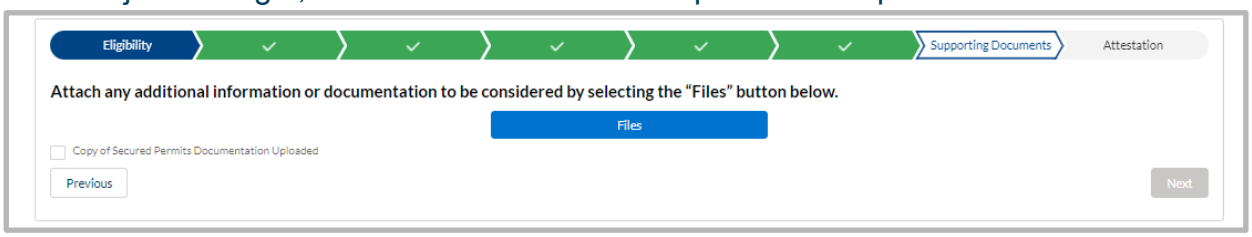
7. Users will now arrive at the **Approvals and Authority** section.
   b. Enter all required information, the press **Next** to continue.



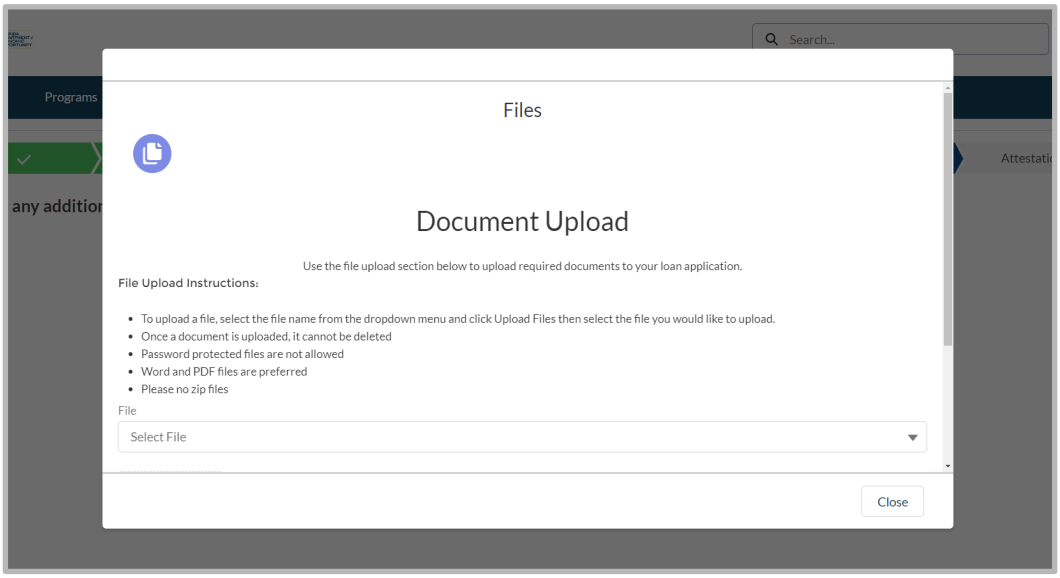
8. Users will now arrive at the **Supporting Documents** section.
    i. Within this section of the application, users will be able to upload the required supporting documentation.
        i. Users should **Convert documents to a PDF**, if they are not already, before uploading.
        ii. To convert files, users should open a word document or google document, depending on their preference, and insert the applicable document to convert.
        iii. Select **Files** -> **Save As** (or **Download** for Google docs) -> **PDF**



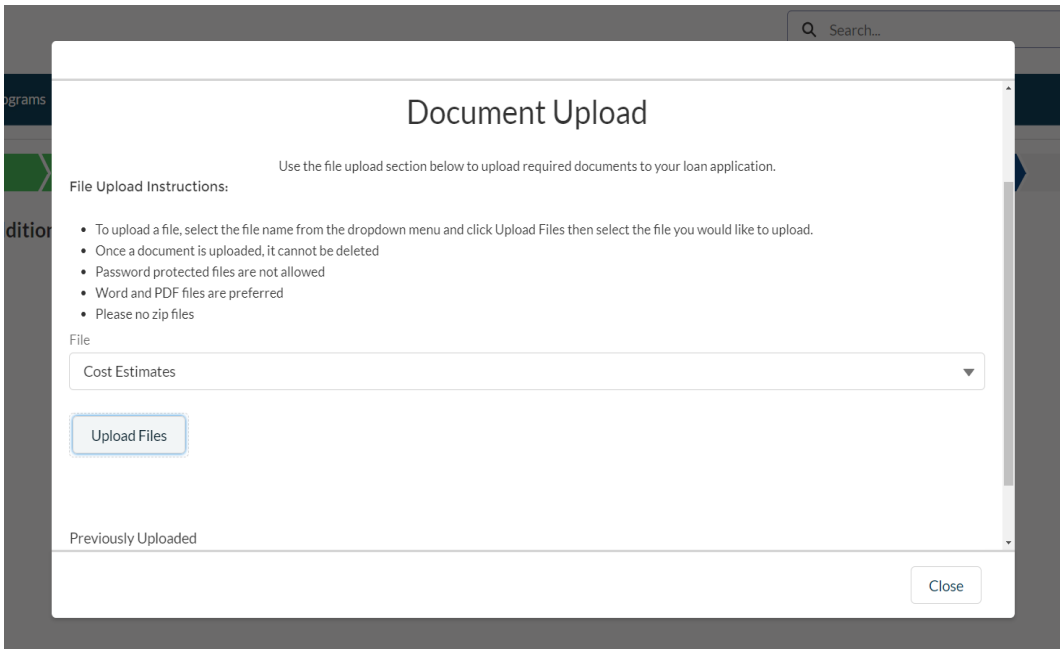
    j. To begin, click the "**Files**" button to open the file uploader.



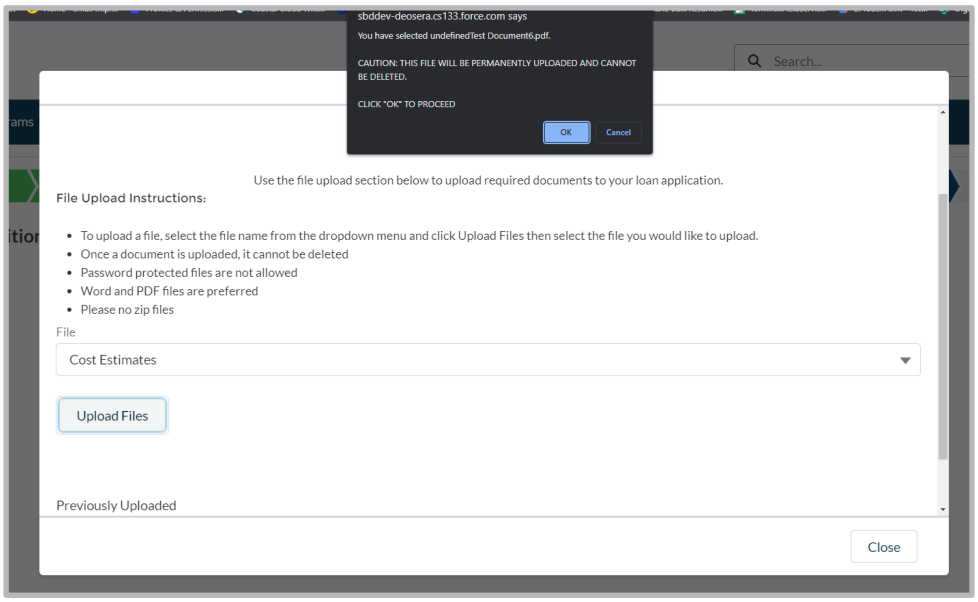
k. First select the file type (i.e., Cost Estimates) from the **Select File** dropdown list.
    i. WF/INF File Types: Supplemental Project Narrative, Project Map(s), Authorization to Sign, Economic Analysis Information, Permit Information or Permitting Timeline, Letter(s) of Support, Additional Budget Information, Cost Estimates, Presentation or Report, and Other (please describe).



l. Once a file type is selected, click the "**Upload Files**" button to select the document to be uploaded from the user's personal file explorer.

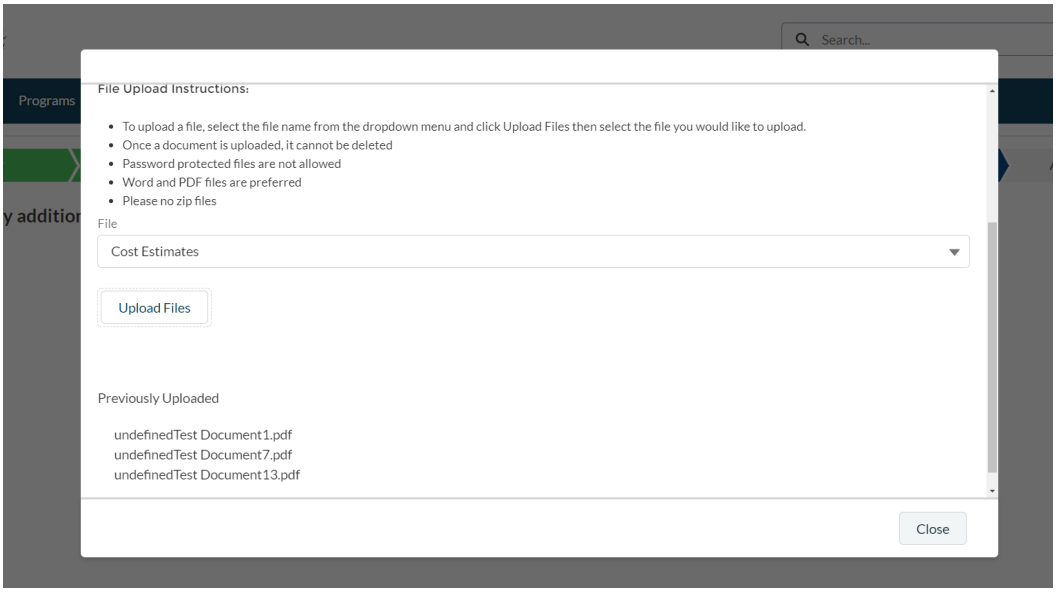


m. Once a file has been selected, click **OK** to proceed with the upload.

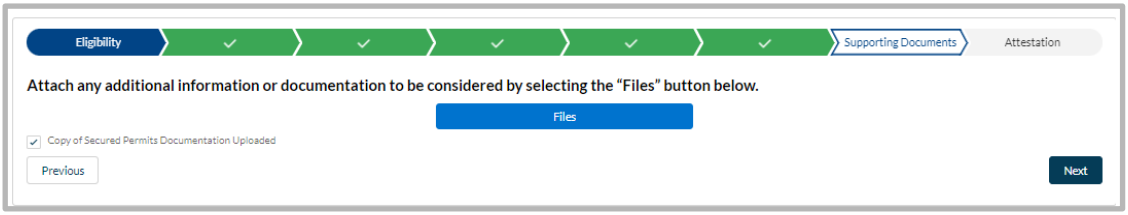


n. A "**Success**" message will appear in green to show that the file has been successfully uploaded and will appear in the "**Previously Uploaded**" section of the screen.

o. Once all files have been uploaded, click **Close**.

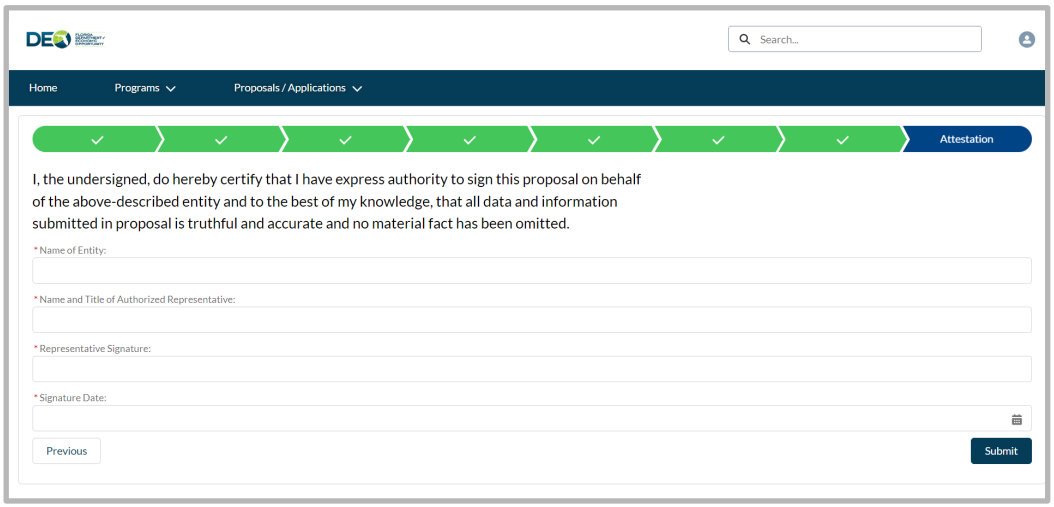


p. Acknowledge that the appropriate documentation has been uploaded. Click **Next** to continue.



9. Within this section of the proposal users will acknowledge the accuracy of the information provided for this proposal and then submit.

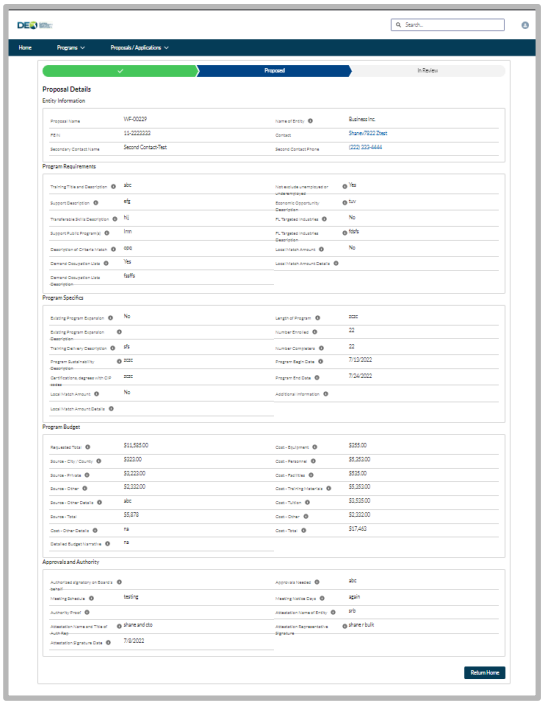
c. Users must acknowledge the statement by providing all the required information requested. Once completed, click **Submit**.



d. Users will then receive a confirmation message of your proposal being submitted. Click **Next**.



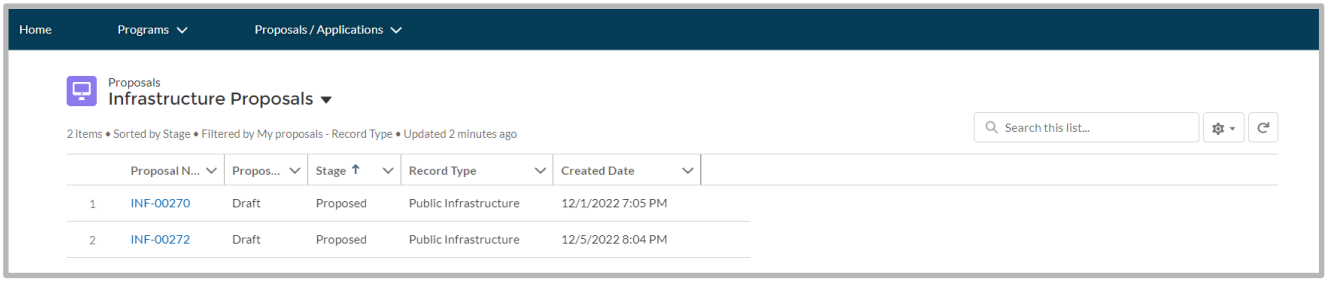
10. Users will then be redirected to an overview of their submitted proposal.



V. Checking on the Status of an Application

Users will be able to view the status of their application at any time by logging back into the SBD Portal.

1. Users can view the status of previous Applications by clicking on the "**Proposals / Applications > Workforce Proposals** or **Infrastructure Proposals**" then selecting the desired proposal to review (but not edit) the data that was entered, see the status of the application.



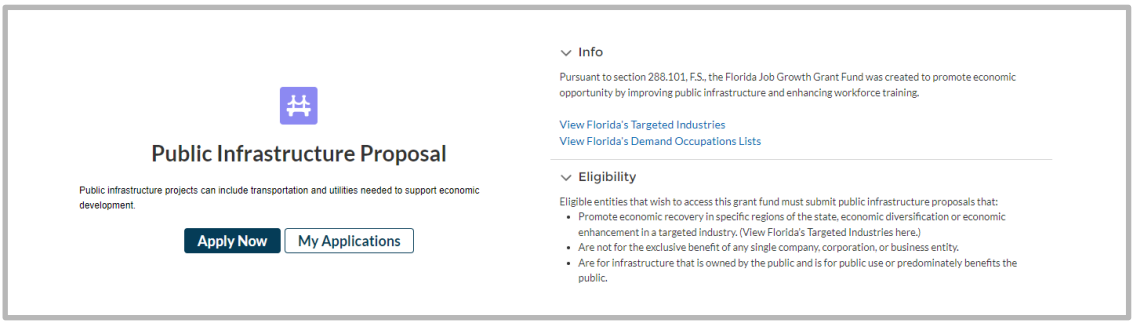
   a. Selecting an application in the **Draft** status will allow users to continue the application process from where they left off.
   b. Clicking an application that has been **Proposed** will allow users to check on the status of their submitted application.

V. Starting an Application from a Subrecipient Account

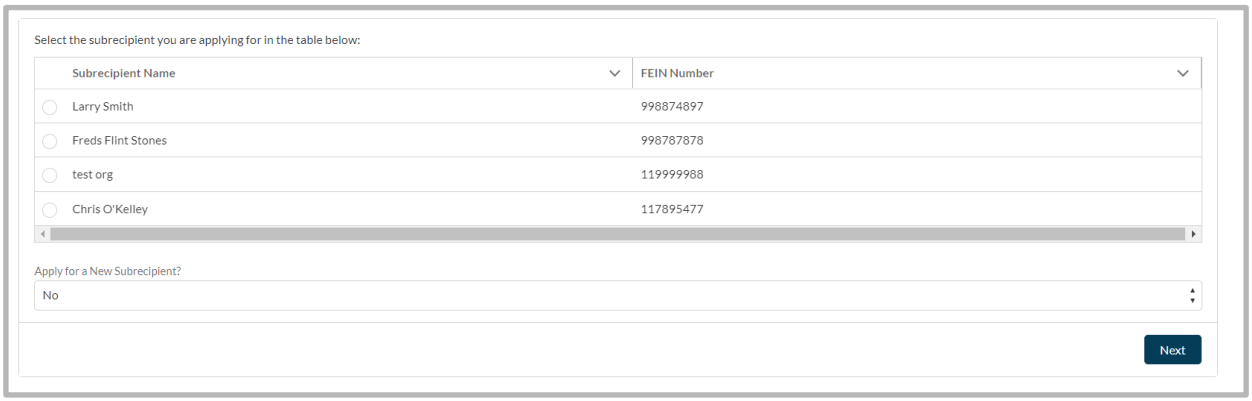
If a user has registered to the portal and has previously submitted an application, when they go to begin a new application there will be the option to start from one of the previous company(s) or apply for a new subrecipient. Selecting a subrecipient to start the application from will pre-populate the subrecipients information in the application. Users will be able to update the data as/if needed.

For Public Infrastructure Proposals:

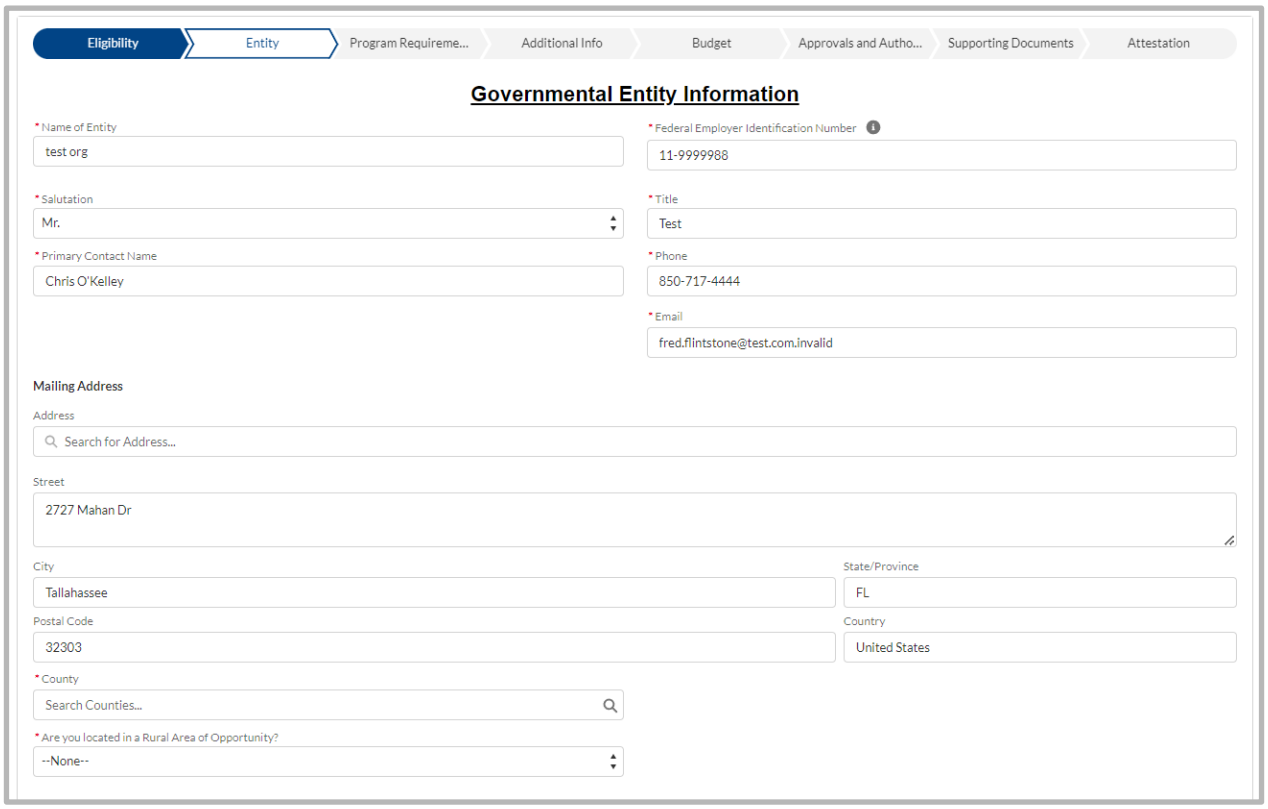
1. Users will select **Apply Now** from the Job Growth Grant Fund page.



2. Users will be presented with the subrecipient selection screen. This is where they will see the option to select a subrecipient they've previously applied for. If they are applying for a new subrecipient users will select **Yes** under "**Apply for a New Subrecipient?**".
    a. When done select **Next**.



3. Users will then be brought to the **Governmental Entity Information** section where they will see the subrecipient information that has been pre-populated.



4. Users will proceed through the rest of the application normally as presented earlier in the document.

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

PUBLIC TRANSPORTATION GRANT AGREEMENT

Form 725-000-01
STRATEGIC DEVELOPMENT
OGC 10/24

Financial Project Number(s): (item-segment-phase-sequence)		Fund(s):	DDR	FLAIR Category:	088719
451943-1-94-01		Work Activity Code/Function:	215	Object Code:	751000
		Federal Award Identification Number (FAIN) – Transit only:	N/A	Org. Code:	55012020129
				Vendor Number:	VF596000453002
Contract Number:	G3639	Federal Award Date:	N/A		
CFDA Number:	N/A	Agency UEI Number:	N/A		
CFDA Title:	N/A				
CSFA Number:	55.004				
CSFA Title:	Aviation Grant Program				

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into _____, by and between the State of Florida, Department of Transportation, ("Department"), and City of Winter Haven, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 332.007, Florida Statutes, to enter into this Agreement.

2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Winter Haven Airport Obstructions Clearing, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.

3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

   X **Aviation**
   __ **Seaports**
   __ **Transit**
   __ **Intermodal**
   __ **Rail Crossing Closure**
   __ **Match to Direct Federal Funding** (Aviation or Transit)
   (Note: Section 15 and Exhibit G do not apply to federally matched funding)
   __ **Other**

4. **Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

   X Exhibit A: Project Description and Responsibilities
   X Exhibit B: Schedule of Financial Assistance
   __ *Exhibit B1: Deferred Reimbursement Financial Provisions
   __ *Exhibit B2: Advance Payment Financial Provisions
   __ *Exhibit B3: Alternative Advanced Pay (Transit Bus Program)
   X *Exhibit C: Terms and Conditions of Construction
   X Exhibit D: Agency Resolution
   X Exhibit E: Program Specific Terms and Conditions
   X Exhibit E1: Prohibition Based on Health Care Choices
   __ Exhibit E2: Exterior Vehicle Wrap, Tinting, Paint, Marketing and Advertising (Transit)
   X Exhibit F: Contract Payment Requirements

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X *Exhibit G: Audit Requirements for Awards of State Financial Assistance
__ *Exhibit H: Audit Requirements for Awards of Federal Financial Assistance
__ *Exhibit I: Certification of Disbursement of Payment to Vehicle and/or Equipment Vendor
__ *Additional Exhibit(s):

*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

5. Time. Unless specified otherwise, all references to "days" within this Agreement refer to calendar days.

6. Term of Agreement. This Agreement shall commence upon full execution by both Parties ("Effective Date") and continue through December 31, 2026. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

a. __ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the __ day of __, or within __ days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

7. Amendments, Extensions, and Assignment. This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

8. Termination or Suspension of Project. The Department may, by written notice to the Agency, suspend any or all of the Department's obligations under this Agreement for the Agency's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

a. Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.

c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.

d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

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e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

9. Project Cost:

a. The estimated total cost of the Project is $1,844,000. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.

b. The Department agrees to participate in the Project cost up to the maximum amount of $1,475,200 and, the Department's participation in the Project shall not exceed 80.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B'', Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

10. Compensation and Payment:

a. Eligible Cost. The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A"**, **Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.

b. Deliverables. The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.

c. Invoicing. Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.

d. Supporting Documentation. Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.

e. Travel Expenses. The selected provision below is controlling regarding travel expenses:

X Travel expenses are NOT eligible for reimbursement under this Agreement.

__ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's

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Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

f. Financial Consequences. Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

g. Invoice Processing. An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

h. Records Retention. The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

i. Progress Reports. Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

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j. Submission of Other Documents. The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

k. Offsets for Claims. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

l. Final Invoice. The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.

m. Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

n. Limits on Contracts Exceeding $25,000 and Term more than 1 Year. In the event this Agreement is in excess of $25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

> "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year."

o. Agency Obligation to Refund Department. Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.

p. Non-Eligible Costs. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A"**, **Project**

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Description and Responsibilities, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A"**, **Project Description and Responsibilities.**

11. **General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

    a. **Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.

    b. **Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.

    c. **Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than $250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:

        i. Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or

        ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.

    d. __ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).

    e. __ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):

        i. __ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).

        ii. __ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.

        iii. __ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.

    f. **Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms

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and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

g. **Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

12. Contracts of the Agency:

a. **Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.

b. **Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.

c. **Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

d. **Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors

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and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

13. **Maintenance Obligations**. In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

    a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

14. **Sale, Transfer, or Disposal of Department-funded Property:**

    a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.

    b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:

        i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.

        ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.

        iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.

        iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.

    c. The terms of provisions “a” and “b” above shall survive the termination of this Agreement.

        i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.

        ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

15. **Single Audit.** The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

    Federal Funded:

    a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by

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Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:

i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit "H", Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.

ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than Federal entities).

iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at https://harvester.census.gov/facweb/ the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.

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v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
3. Wholly or partly suspend or terminate the Federal award;
4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
5. Withhold further Federal awards for the Project or program;
6. Take other remedies that may be legally available.

vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

State Funded:

a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.

b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:

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i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance,** to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).

iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0405
FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as

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applicable.

vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.

viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

16. Notices and Approvals. Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

17. Restrictions, Prohibitions, Controls and Labor Provisions:

a. Convicted Vendor List. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

b. Discriminatory Vendor List. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

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c. Non-Responsible Contractors. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

d. Prohibition on Using Funds for Lobbying. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

e. Unauthorized Aliens. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.

f. Procurement of Construction Services. If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.

g. E-Verify. The Agency shall:

i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and

ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

h. Projects with Non-profit Organizations. Pursuant to Section 216.1366. Florida Statutes, if the Agency is a nonprofit organization as defined in Section 215.97(2)(m), Florida Statutes, the Agency shall provide documentation to indicate the amount of state funds:

i. Allocated to be used during the full term of this Agreement for remuneration to any member of the board of directors or an officer of the Agency

ii. Allocated under each payment by the Department to be used for remuneration of any member of the board of directors or an officer of the Agency. The documentation must indicate the amounts and recipients of the remuneration.

Such information will be posted by the Department to the Florida Accountability Contract Tracking System maintained pursuant to Section 215.985, F.S., and must additionally be posted to the Agency's website, if the Agency is a non-profit organization and maintains a website. The Agency shall utilize the Department's Form 350-090-19, Compensation to Non-Profits Using State Funds, for purposes of documenting the compensation. The subject Form is required for every contract for services executed, amended, or extended on or after July 1, 2023, with non-profit organizations.

Pursuant to Section 216.1366, F.S., the term:

iii. "Officer" means a chief executive officer, chief financial officer, chief operating officer, or any other position performing and equivalent function.

iv. "Remuneration" means all compensation earned by or awarded to personnel, whether paid or accrued, regardless of contingency, including bonuses, accrued paid time off,

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severance payments, incentive payments, contributions to a retirement plan or in-kind payments, reimbursements, or allowances for moving expenses, vehicles and other transportation, telephone services, medical services, housing and meals.

v. "State Funds" means funds paid from the General Revenue Fund or any state trust fund, funds allocated by the Federal Government and distributed by the state, or funds appropriated by the Federal Government and distributed by the state, or funds appropriated by the state fo distribution through any grant program. The term does not include funds used for the Medicaid program.

i. Design Services and Construction Engineering and Inspection Services. If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

18. Indemnification and Insurance:

a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the Agency shall indemnify, defend, and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the Department's or the Agency's sovereign immunity. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the Department's or the Agency's sovereign immunity. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify, defend, and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include

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operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.

c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than $2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than $6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.

e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

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19. Miscellaneous:

a. Environmental Regulations. The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.

b. Non-Admission of Liability. In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

c. Severability. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

d. Agency not an agent of Department. The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.

e. Bonus or Commission. By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

f. Non-Contravention of State Law. Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

g. Execution of Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.

h. Federal Award Identification Number (FAIN). If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).

i. Inspector General Cooperation. The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

j. Law, Forum, and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

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PUBLIC TRANSPORTATION GRANT AGREEMENT

AGENCY City of Winter Haven

By: _____

Name: _____

Title: _____

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: _____

Name: Nicole E. Mills, P.E.

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
Legal Review:

Don Conway, Senior Attorney (as to form and legality)

DS
DC

Docusign Envelope ID: DA6F45AA-C0DB-47B7-8E63-F4E742F305AE

EXHIBIT A

Project Description and Responsibilities

A. Project Description (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): Winter Haven Airport Obstructions Clearing

B. Project Location (limits, city, county, map): Winter Haven Regional Airport/Winter Haven, FL/Polk

C. Project Scope (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): As required by 215.971, F.S., this scope of work includes but is not limited to consultant and design fees, survey costs, permitting, construction inspection costs, mobilization and demobilization, maintenance of traffic, demolition, mitigation, marking, and lighting (conduits, cables, and fixtures). It includes all materials, equipment, labor, and incidentals required to complete the project. The Sponsor will comply with Aviation Program Assurances.

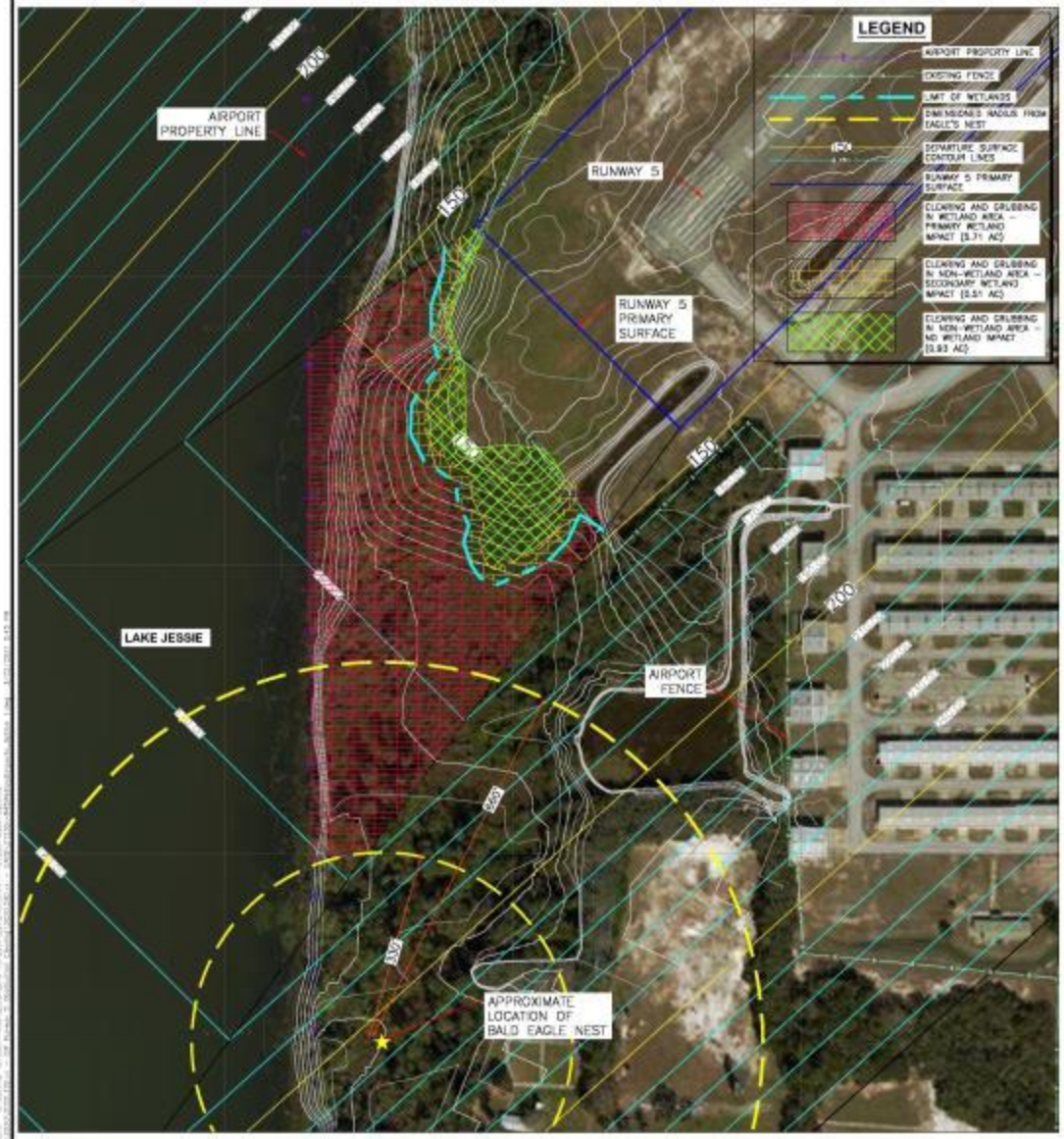
D. Deliverable(s):

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

E. Unallowable Costs (including but not limited to):

F. Transit Operating Grant Requirements (Transit Only):

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.



North

0' 50' 100' 200'

GRAPHIC SCALE IN FEET

PRELIMINARY ESTIMATE OF PROBABLE CONSTRUCTION COST

ITEM NUMBER	SID ITEM	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	ESTIMATED TOTAL
1	M-100-1	MOBILIZATION	LS	1	$ 10,000.00	$ 10,000.00
2	M-102-1	SAFETY, SECURITY AND MAINTENANCE OF TRAFFIC	LS	1	$ 5,000.00	$ 5,000.00
3	M-102-2	SAFETY, PHASING AND CONSTRUCTION PLAN	LS	1	$ 5,000.00	$ 5,000.00
4	P-151-1	CLEARING & GRUBBING - WETLAND AREAS	AC	3.71	$ 25,000.00	$ 142,150.00
5	P-151-2	CLEARING & GRUBBING - NON-WETLAND AREAS	AC	1.44	$ 15,000.00	$ 21,600.00
6	P-151-3	DEBRIS REMOVAL	LS	1	$ 10,000.00	$ 10,000.00
7	P-151-4	DEMUCKING	CY	10,000	$ 25.00	$ 250,000.00
8	P-152-1	EXCAVATION & EMBANKMENT	CY	40,000	$ 10.00	$ 400,000.00
9	P-156-1	TEMPORARY AIR AND WATER POLLUTION, SOIL EROSION, AND SILTATION CONTROL	LS	1	$ 10,000.00	$ 10,000.00
10	F-162-1	CHAIN LINK FENCE REMOVAL AND RELOCATION	LS	1	$ 15,000.00	$ 15,000.00
11	T-904-1	SODDING	SY	35,000	$ 3.50	$ 105,000.00
					SUBTOTAL:	$ 1,004,350.00
12	SID-1	WETLAND MITIGATION CREDITS* - PRIMARY IMPACTS (3.94 CREDITS)	EA	3.94	$ 165,000.00	$ 382,800.00
13	SID-2	WETLAND MITIGATION CREDITS* - SECONDARY IMPACTS (0.15 CREDITS)	EA	0.15	$ 165,000.00	$ 24,250.00
					SUBTOTAL:	$ 1,431,400.00
					10% CONTINGENCY:	$ 107,400.00
					CONSTRUCTION TOTAL:	$ 1,544,840.00

*PLEASE NOTE: THE ESTIMATED MITIGATION COST IS BASED ON THE PURCHASE OF MITIGATION CREDITS FROM THE ACCESS ROAD RELOCATION PROJECT. THE ACTUAL MITIGATION COST WILL BE DETERMINED DURING THE DESIGN AND PERMITTING PHASE OF THIS PROJECT. PRICES AND AVAILABILITY OF WETLAND MITIGATION BANK CREDITS ARE SUBJECT TO CHANGE. THE ESTIMATED MITIGATION CREDIT FOR PRIMARY IMPACTS HAS BEEN CALCULATED AS 53.3% OF THE PRIMARY IMPACT ACREAGE. THE ESTIMATED MITIGATION CREDIT FOR SECONDARY IMPACTS HAS BEEN CALCULATED AS 30.3% OF THE SECONDARY IMPACT ACREAGE.

WINTER HAVEN
The Chain of Lakes City

AVCON

AVCON, INC.
DESIGNERS & PLANNERS
PROFESSIONAL SEAL

RUNWAY 5 OBSTRUCTION CLEARING

WINTER HAVEN REGIONAL AIRPORT
WINTER HAVEN, FLORIDA

RUNWAY 5 OBSTRUCTION REMOVAL WETLAND IMPACTS - OPTION 1

ATTENTION
THIS DOCUMENT CONTAINS PRIVILEGED AND PROPRIETARY CONFIDENTIAL ALL OF WHICH IS RESERVED FOR/AND BY AVCON, INC. FOR USE BY THE INTENDED RECIPIENT AND FOR A SPECIFIC PURPOSE. APPROVAL FOR EXPRESS WRITTEN CONSENT OF AVCON, INC. ANY DISTRIBUTION, REPRODUCTION, OR OTHER USE OF THIS DOCUMENT IS STRICTLY PROHIBITED EXCEPT AS PROVIDED FOR IN A SEPARATE AGREEMENT.

SCALE (FT): GRAPHIC

REVISIONS:

NO.	DATE	BY	DESCRIPTION

DESIGNED BY: BSH
DRAWN BY: ACH
CHECKED BY: BSH
APPROVED BY: SS
DATE: MARCH 2021

FDOT FM NO. XXXXXX-1
FAA AIP NO. 3-12-0XXX-XXX-XXXX
AVCON PROJECT NO. 2021.239.XX
21XXXXRWSWETLANDIMPACTS_OPTION 1

DRAWING
EX. 1
SHEET 1 OF XX

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EXHIBIT B

Schedule of Financial Assistance

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

A. Fund Type and Fiscal Year:

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/ CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
451943-1-94-01	DDR	088719	2025	751000	55.004	Aviation Grant Program	$1,475,200.00
451943-1-94-01	LF	088719	2025	751000	55.004	Aviation Grant Program	$368,800.00
	Total Financial Assistance						$1,844,000.00

B. Estimate of Project Costs by Grant Phase:

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Planning	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Environmental/Design/Construction	$1,475,200.00	$368,800.00	$0.00	$1,844,000.00	80.00	20.00	0.00
Capital Equipment/ Preventative Maintenance	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Mobility Management (Transit Only)	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Totals	$1,475,200.00	$368,800.00	$0.00	$1,844,000.00			

*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

Scope Code and/or Activity Line Item (ALI) (Transit Only)	

BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Jennifer Gaona, MPA

Department Grant Manager Name

DocuSigned by:
Jennifer Gaona
23A08B2DA0DD44D...

11/19/2024 | 1:54 PM EST

Signature Date

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EXHIBIT C

TERMS AND CONDITIONS OF CONSTRUCTION

1. Design and Construction Standards and Required Approvals.

a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.

b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, Jennifer Gaona, MPA (email: jennifer.gaona@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.

c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.

d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).

e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.

f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

2. Construction on the Department's Right of Way. If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.

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b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.

c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.

d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is __.

e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.

f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.

g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.

h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

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estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S.

i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.

j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.

k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.

l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.

m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.

n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.

o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.

p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,

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without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.

q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.

s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.

t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation):

u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)

3. **Engineer's Certification of Compliance.** The Agency shall complete and submit and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

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ENGINEER'S CERTIFICATION OF COMPLIANCE

PUBLIC TRANSPORTATION GRANT AGREEMENT
BETWEEN
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and _____

PROJECT DESCRIPTION: _____

DEPARTMENT CONTRACT NO.: _____

FINANCIAL MANAGEMENT NO.: _____

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: _____, P.E.

SEAL:

Name: _____

Date: _____

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EXHIBIT D

AGENCY RESOLUTION

PLEASE SEE ATTACHED

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EXHIBIT E

PROGRAM SPECIFIC TERMS AND CONDITIONS - AVIATION
AVIATION PROGRAM ASSURANCES

A. General.

1. The assurances herein shall form an integral part of the Agreement between the Department and the Agency.

2. These assurances delineate the obligations of the Parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit "A", Project Description and Responsibilities**, and **Exhibit "B", Schedule of Financial Assistance**, as well as serving to protect public investment in public-use airports and the continued viability of the Florida Aviation System.

3. The Agency shall comply with the assurances as specified in this Agreement.

4. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for an airport development or noise compatibility program project, but shall not exceed 20 years from the effective date of this Agreement.

5. There shall be no limit on the duration of the terms and assurances of this Agreement regarding Exclusive Rights and Airport Revenue so long as the property is used as a public airport.

6. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by this Agreement.

7. Subject to appropriations, the Department shall continue to comply with its financial commitment to this Project under the terms of this Agreement, until such time as the Department may determine that the Agency has failed to comply with the terms and assurances of this Agreement.

8. An Agency that has been determined by the Department to have failed to comply with either the terms of these Assurances, or the terms of the Agreement, or both, shall be notified, in writing, by the Department, identifying the specifics of the non-compliance and any corrective action by the Agency to remedy the failure.

9. Failure by the Agency to satisfactorily remedy the non-compliance shall absolve the Department's continued financial commitment to this Project and immediately require the Agency to repay the Department the full amount of funds expended by the Department on this Project.

10. Any history of failure to comply with the terms and assurances of an Agreement will jeopardize the Agency's eligibility for further state funding of airport projects by the Department.

B. Agency Compliance Certification.

1. General Certification. The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and applicable local governments, as well as Department policies, guidelines, and requirements, including but not limited to, the following (latest version of each document):

a. Florida Statutes (F.S.)

- Chapter 163, F.S., Intergovernmental Programs
- Chapter 329, F.S., Aircraft: Title; Liens; Registration; Liens
- Chapter 330, F.S., Regulation of Aircraft, Pilots, and Airports
- Chapter 331, F.S., Aviation and Aerospace Facilities and Commerce
- Chapter 332, F.S., Airports and Other Air Navigation Facilities
- Chapter 333, F.S., Airport Zoning

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b. Florida Administrative Code (FAC)

- Chapter 73C-41, FAC, Community Planning; Governing the Procedure for the Submittal and Review of Local Government Comprehensive Plans and Amendments
- Chapter 14-60, FAC, Airport Licensing, Registration, and Airspace Protection
- Section 62-256.300, FAC, Open Burning, Prohibitions
- Section 62-701.320(13), FAC, Solid Waste Management Facility Permit Requirements, General, Airport Safety

c. Local Government Requirements

- Airport Zoning Ordinance
- Local Comprehensive Plan

d. Department Requirements

- Eight Steps of Building a New Airport
- Florida Airport Revenue Use Guide
- Florida Aviation Project Handbook
- Guidebook for Airport Master Planning
- Airport Compatible Land Use Guidebook

2. **Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as Federal Aviation Administration (FAA) Advisory Circulars (AC's) and FAA issued waivers thereto, including but not limited to, the following:

a. Federal Requirements

- FAA AC 70/7460-1, Obstruction Marking and Lighting
- FAA AC 150/5300-13, Airport Design
- FAA AC 150/5370-2, Operational Safety on Airports During Construction
- FAA AC 150/5370-10, Standards for Specifying Construction of Airports

b. Local Government Requirements

- Local Building Codes
- Local Zoning Codes

c. Department Requirements

- Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the "Florida Green Book")
- Manual on Uniform Traffic Control Devices
- Section 14-60.007, FAC, Airfield Standards for Licensed Airports
- Standard Specifications for Construction of General Aviation Airports
- Design Guidelines & Minimum Standard Requirements for T-Hangar Projects

3. **Land Acquisition Certification.** The Agency hereby certifies, regarding land acquisition, that it will comply with applicable federal and/or state policies, regulations, and laws, including but not limited to the following:

a. Federal Requirements

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- National Environmental Policy of 1969
- FAA Order 5050.4, National Environmental Policy Act Implementing Instructions for Airport Projects
- FAA Order 5100.37B, Land Acquisition and Relocation Assistance for Airport Projects

b. Florida Requirements

- Chapter 73, F.S., Eminent Domain (re: Property Acquired Through Condemnation)
- Chapter 74, F.S., Proceedings Supplemental to Eminent Domain (re: Condemnation)
- Section 286.23, F.S., Public Business: Miscellaneous Provisions

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C. Agency Authority.

1. **Legal Authority.** The Agency hereby certifies, with respect to this Agreement, that it has the legal authority to enter into this Agreement and commit to this Project; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the airport sponsor's governing body authorizing this Agreement, including assurances contained therein, and directing and authorizing the person identified as the official representative of the governing body to act on its behalf with respect to this Agreement and to provide any additional information as may be required.

2. **Financial Authority.** The Agency hereby certifies, with respect to this Agreement, that it has sufficient funds available for that portion of the Project costs which are not paid by the U.S. Government or the State of Florida; that it has sufficient funds available to assure future operation and maintenance of items funded by this Project, which it will control; and that authority has been granted by the airport sponsor governing body to commit those funds to this Project.

D. Agency Responsibilities. The Agency hereby certifies it currently complies with or will comply with the following responsibilities:

1. **Accounting System.**

   a. The Agency shall create and maintain a separate account to document all of the financial transactions related to the airport as a distinct entity.

   b. The accounting records shall be kept by the Agency or its authorized representative in accordance with Generally Accepted Accounting Principles and in an accounting system that will facilitate an effective audit in accordance with the 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Section 215.97, F.S., Florida Single Audit Act.

   c. The Department has the right to audit and inspect all financial records of the Agency upon reasonable notice.

2. **Good Title.**

   a. The Agency holds good title, satisfactory to the Department, to the airport or site thereof, or gives assurance, satisfactory to the Department, that good title will be obtained.

   b. For noise compatibility program projects undertaken on the airport sponsor's property, the Agency holds good title, satisfactory to the Department, to that portion of the property upon which state funds will be expended, or gives assurance, satisfactory to the Department, that good title will be obtained.

3. **Preserving Rights and Powers.**

   a. The Agency shall not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, the Agency shall act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.

   b. If an arrangement is made for management and operation of the airport by any entity or person other than the Agency or an employee of the Agency, the Agency shall reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with the terms and assurances of this Agreement.

4. **Hazard Removal and Mitigation.**

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a. For airport hazards located on airport controlled property, the Agency shall clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

b. For airport hazards not located on airport controlled property, the Agency shall work in conjunction with the governing public authority or private land owner of the property to clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards. The Agency may enter into an agreement with surrounding property owners or pursue available legal remedies to remove potential hazards to air navigation.

5. Airport Compatible Land Use.

a. The Agency assures that appropriate airport zoning ordinances are in place consistent with Section 333.03, F.S., or if not in place, that it will take appropriate action necessary to ensure local government adoption of an airport zoning ordinance or execution of an interlocal agreement with another local government body having an airport zoning ordinance, consistent with the provisions of Section 333.03, F.S.

b. The Agency assures that it will disapprove or oppose any attempted alteration or creation of objects, natural or man-made, dangerous to navigable airspace or that would adversely affect the current or future levels of airport operations.

c. The Agency assures that it will disapprove or oppose any attempted change in local land use development regulations that would adversely affect the current or future levels of airport operations by creation or expansion of airport incompatible land use areas.

6. Consistency with Local Government Plans.

a. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the airport.

b. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.

c. The Agency shall consider and take appropriate actions, if deemed warranted by the Agency, to adopt the current, approved Airport Master Plan into the local government comprehensive plan.

7. Consistency with Airport Master Plan and Airport Layout Plan.

a. The Agency assures that the project, covered by the terms and assurances of this Agreement, is consistent with the most current Airport Master Plan.

b. The Agency assures that the Project, covered by the terms and assurances of this Agreement, is consistent with the most current, approved Airport Layout Plan (ALP), which shows:

1) The boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Agency for airport purposes and proposed additions thereto;
2) The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and
3) The location of all existing and proposed non-aviation areas on airport property and of all existing improvements thereon.

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c. The Agency assures that it will not make or permit any changes or alterations on the airport or any of its facilities that are not consistent with the Airport Master Plan and the Airport Layout Plan, as approved by the Department.

d. Original Airport Master Plans and Airport Layout Plans and each amendment, revision, or modification thereof, will be subject to the approval of the Department.

8. Airport Financial Plan.

a. The Agency assures that it will develop and maintain a cost-feasible Airport financial plan to accomplish the projects necessary to achieve the proposed airport improvements identified in the Airport Master Plan and depicted in the Airport Layout Plan, and any updates thereto. The Agency's Airport financial plan must comply with the following conditions:

1) The Airport financial plan will be a part of the Airport Master Plan.
2) The Airport financial plan will realistically assess project phasing considering availability of state and local funding and likelihood of federal funding under the FAA's priority system.
3) The Airport financial plan will not include Department funding for projects that are inconsistent with the local government comprehensive plan.

b. All Project cost estimates contained in the Airport financial plan shall be entered into and kept current in the Florida Aviation Database (FAD) Joint Automated Capital Improvement Program (JACIP) website.

9. Airport Revenue. The Agency assures that all revenue generated by the airport will be expended for capital improvement or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the air transportation of passengers or property, or for environmental or noise mitigation purposes on or off the airport.

10. Fee and Rental Structure.

a. The Agency assures that it will maintain a fee and rental structure for facilities and services at the airport that it will make the airport as self-sustaining as possible under the circumstances existing at the particular airport.

b. If this Agreement results in a facility that will be leased or otherwise produce revenue, the Agency assures that the price charged for that facility will be based on the market value.

11. Public-Private Partnership for Aeronautical Uses.

a. If the airport owner or operator and a person or entity that owns an aircraft or an airport tenant or potential tenant agree that an aircraft hangar or tenant-specific facility, respectively, is to be constructed on airport property for aircraft storage or tenant use at the expense of the aircraft owner or tenant, the airport owner or operator may grant to the aircraft owner or tenant of the facility a lease that is subject to such terms and conditions on the facility as the airport owner or operator may impose, subject to approval by the Department.

b. The price charged for said lease will be based on market value, unless otherwise approved by the Department.

12. Economic Nondiscrimination.

a. The Agency assures that it will make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public.

1) The Agency may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

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2) The Agency may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

b. The Agency assures that each airport Fixed-Based Operator (FBO) shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport and utilizing the same or similar facilities.

13. Air and Water Quality Standards. The Agency assures that all projects involving airport location, major runway extension, or runway location will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

14. Operations and Maintenance.

a. The Agency assures that the airport and all facilities, which are necessary to serve the aeronautical users of the airport, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation, as well as minimum standards established by the Department for State of Florida licensing as a public-use airport.

1) The Agency assures that it will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
2) Except in emergency situations, any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Department.
3) The Agency assures that it will have arrangements for promptly notifying airmen of any condition affecting aeronautical use of the airport.

b. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when adverse weather conditions interfere with safe airport operations.

15. Federal Funding Eligibility.

a. The Agency assures it will take appropriate actions to maintain federal funding eligibility for the airport and it will avoid any action that renders the airport ineligible for federal funding.

b. If the Agency becomes ineligible for federal funding of airport projects, such determination will render the Agency ineligible for state funding of airport projects.

16. Project Implementation.

a. The Agency assures that it will begin making expenditures or incurring obligations pertaining to this Project within one year after the effective date of this Agreement.

b. The Agency may request a one-year extension of this one-year time period, subject to approval by the Department District Secretary or designee.

c. Failure of the Agency to make expenditures, incur obligations or receive an approved extension may allow the Department to terminate this Agreement.

17. Exclusive Rights. The Agency assures that it will not permit any exclusive right for use of the airport by any person providing, or intending to provide, aeronautical services to the public.

18. Airfield Access.

a. The Agency assures that it will not grant or allow general easement or public access that opens onto or crosses the airport runways, taxiways, flight line, passenger facilities, or any area used for emergency

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equipment, fuel, supplies, passengers, mail and freight, radar, communications, utilities, and landing systems, including but not limited to flight operations, ground services, emergency services, terminal facilities, maintenance, repair, or storage, except for those normal airport providers responsible for standard airport daily services or during special events at the airport open to the public with limited and controlled access.

b. The Agency assures that it will not grant or allow general easement or public access to any portion of the airfield from adjacent real property which is not owned, operated, or otherwise controlled by the Agency without prior Department approval.

19. Retention of Rights and Interests. The Agency will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the real property shown as airport owned or controlled on the current airport layout plan without prior written approval by the Department. It will not sell, lease, encumber, terminate, waive, or otherwise transfer or dispose of any part of its title, rights, or other interest in existing noise easements or avigation easements on any property, airport or non-airport, without prior written approval by the Department. These assurances shall not limit the Agency's right to lease airport property for airport-compatible purposes.

20. Consultant, Contractor, Scope, and Costs.

a. The Department has the right to disapprove the Agency's employment of consultants, contractors, and subcontractors for all or any part of this Project if the specific consultants, contractors, or subcontractors have a record of poor project performance with the Department.

b. Further, the Department maintains the right to disapprove the proposed Project scope and cost of professional services.

21. Planning Projects. For all planning projects or other aviation studies, the Agency assures that it will:

a. Execute the project per the approved project narrative or with approved modifications.

b. Furnish the Department with such periodic project and work activity reports as indicated in the approved scope of services.

c. Make such project materials available for public review, unless exempt from public disclosure.

1) Information related to airport security is considered restricted information and is exempt from public dissemination per Sections 119.071(3) and 331.22 F.S.
2) No materials prepared under this Agreement shall be subject to copyright in the United States or any other country.

d. Grant the Department unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Agreement.

e. If the Project involves developing an Airport Master Plan or an Airport Layout Plan, and any updates thereto, it will be consistent with provisions of the Florida Aviation System Plan, will identify reasonable future growth of the airport and the Agency will comply with the Department airport master planning guidebook, including:

1) Provide copies, in electronic and editable format, of final Project materials to the Department, including computer-aided drafting (CAD) files of the Airport Layout Plan.
2) Develop a cost-feasible financial plan, approved by the Department, to accomplish the projects described in the Airport Master Plan or depicted in the Airport Layout Plan, and any updates thereto. The cost-feasible financial plan shall realistically assess Project phasing considering availability of state and local funding and federal funding under the FAA's priority system.
3) Enter all projects contained in the cost-feasible plan in the Joint Automated Capital Improvement Program (JACIP).

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f. The Agency understands and agrees that Department approval of this Agreement or any planning material developed as part of this Agreement does not constitute or imply any assurance or commitment on the part of the Department to approve any pending or future application for state aviation funding.

g. The Agency will submit master planning draft and final deliverables for Department and, if required, FAA approval prior to submitting any invoices to the Department for payment.

22. Land Acquisition Projects. For the purchase of real property, the Agency assures that it will:

a. Laws. Acquire the land in accordance with federal and/or state laws governing such action.

b. Administration. Maintain direct control of Project administration, including:

1) Maintain responsibility for all related contract letting and administrative procedures related to the purchase of real property.
2) Secure written Department approval to execute each agreement for the purchase of real property with any third party.
3) Ensure a qualified, State-certified general appraiser provides all necessary services and documentation.
4) Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
5) Establish a Project account for the purchase of the land.
6) Collect and disburse federal, state, and local project funds.

c. Reimbursable Funds. If funding conveyed by this Agreement is reimbursable for land purchase in accordance with Chapter 332, F.S., the Agency shall comply with the following requirements:

1) The Agency shall apply for a FAA Airport Improvement Program grant for the land purchase within 60 days of executing this Agreement.
2) If federal funds are received for the land purchase, the Agency shall notify the Department, in writing, within 14 calendar days of receiving the federal funds and is responsible for reimbursing the Department within 30 calendar days to achieve normal project federal, state, and local funding shares per Chapter 332, F.S.
3) If federal funds are not received for the land purchase, the Agency shall reimburse the Department within 30 calendar days after the reimbursable funds are due in order to achieve normal project state and local funding shares as described in Chapter 332, F.S.
4) If federal funds are not received for the land purchase and the state share of the purchase is less than or equal to normal state and local funding shares per Chapter 332, F.S., when reimbursable funds are due, no reimbursement to the Department shall be required.

d. New Airport. If this Project involves the purchase of real property for the development of a new airport, the Agency assures that it will:

1) Apply for federal and state funding to construct a paved runway, associated aircraft parking apron, and connecting taxiway within one year of the date of land purchase.
2) Complete an Airport Master Plan within two years of land purchase.
3) Complete airport construction for basic operation within 10 years of land purchase.

e. Use of Land. The Agency assures that it shall use the land for aviation purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.

f. Disposal of Land. For the disposal of real property the Agency assures that it will comply with the following:
1) For land purchased for airport development or noise compatibility purposes, the Agency shall, when the land is no longer needed for such purposes, dispose of such land at fair market value and/or make available to the Department an amount equal to the state's proportionate share of its market value.

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2) Land will be considered to be needed for airport purposes under this assurance if:

a) It serves aeronautical purposes such as a runway protection zone or as a noise buffer.
b) Revenue from uses of such land contributes to airport financial self-sufficiency.

3) Disposition of land under Sections D.22.f.1. or D.22.f.2. of this Exhibit, above, shall be subject to retention or reservation of any interest or right therein needed to ensure such land will only be used for purposes compatible with noise levels related to airport operations.
4) Revenues from the sale of such land must be accounted for as outlined in Section D.1. of this Exhibit, and expended as outlined in Section D.9. of this Exhibit.

23. Construction Projects. The Agency assures that it will:

a. Project Certifications. Certify Project compliances, including:

1) Consultant and contractor selection comply with all applicable federal, state and local laws, rules, regulations, and policies.
2) All design plans and specifications comply with federal, state, and professional standards and applicable FAA advisory circulars, as well as the minimum standards established by the Department for State of Florida licensing as a public-use airport.
3) Completed construction complies with all applicable local building codes.
4) Completed construction complies with the Project plans and specifications with certification of that fact by the Project Engineer.

b. Design Development. For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer, which are hereinafter collectively referred to as "plans", the Engineer will certify that:

1) The plans shall be developed in accordance with sound engineering and design principles, and with generally accepted professional standards.
2) The plans shall be consistent with the intent of the Project as defined in Exhibit A and Exhibit B of this Agreement.
3) The Project Engineer shall perform a review of the certification requirements listed in Section B.2. of this Exhibit, Construction Certification, and make a determination as to their applicability to this Project.
4) Development of the plans shall comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

c. Inspection and Approval. The Agency assures that:

1) The Agency will provide and maintain competent technical supervision at the construction site throughout the Project to assure that the work conforms to the plans, specifications, and schedules approved by the Department, as applicable, for the Project.
2) The Agency assures that it will allow the Department to inspect the work and that it will provide any cost and progress reporting, as may be required by the Department.
3) The Agency assures that it will take the appropriate corrective action necessary, as required by the Department, for work which does not conform to the Department standards.

d. Pavement Preventive Maintenance. The Agency assures that for a project involving replacement or reconstruction of runway or taxiway pavement it has implemented an airport pavement maintenance management program and that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with state financial assistance at the airport.

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24. Noise Mitigation Projects. The Agency assures that it will:

a. Government Agreements. For all noise compatibility projects that are carried out by another unit of local government or are on property owned by a unit of local government other than the Agency, the Agency shall enter into an agreement with that government body.

1) The local agreement, satisfactory to the Department, shall obligate the unit of local government to the same terms and assurances that apply to the Agency.
2) The Agency assures that it will take steps to enforce the local agreement if there is substantial non-compliance with the terms of the local agreement.

b. Private Agreements. For noise compatibility projects on privately owned property:

1) The Agency shall enter into an agreement with the owner of that property to exclude future actions against the airport.
2) The Agency assures that it will take steps to enforce such agreement if there is substantial non-compliance with the terms of the agreement.

- End of Exhibit E -

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Exhibit E1

PROGRAM SPECIFIC TERMS AND CONDITIONS

(Prohibition on Discrimination Based on Health Care Choices)

This exhibit forms an integral part of the Agreement between the Department and the Agency.

1. **Statutory Reference.** Section 339.08, F.S. and Section 381.00316, F.S.

2. **Statutory Compliance.** Pursuant to Section 339.08, F.S., the Department may not expend state funds to support a project or program of certain entities if the entity is found to be in violation of Section 381.00316, F.S. The Department shall withhold state funds until the entity is found to be in compliance with Section 381.00316, F.S. This shall apply to any of the following entities:

    a. A public transit provider as defined in s. 341.031(1), F.S.;
    b. An authority created pursuant to chapter 343, F.S., chapter 348, F.S., or chapter 349, F.S.; c. A public-use airport as defined in s. 332.004, F.S.; or
    d. A port listed in s. 311.09(1), F.S.

- End of Exhibit E1 -

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EXHIBIT F

Contract Payment Requirements
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf.

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EXHIBIT G

AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~

Awarding Agency: Florida Department of Transportation
State Project Title: Aviation Grant Program
CSFA Number: 55.004
***Award Amount:** $1,475,200

*The award amount may change with amendments

Specific project information for CSFA Number 55.004 is provided at: https://apps.fldfs.com/fsaa/searchCatalog.aspx

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number 55.004 are provided at: https://apps.fldfs.com/fsaa/searchCompliance.aspx

The State Projects Compliance Supplement is provided at: https://apps.fldfs.com/fsaa/compliance.aspx

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To: Jennifer.Gaona@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

G3639

11/14/2024

CONTRACT INFORMATION

Contract:	G3639
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERMENTAL AGENCY (287.057,F.S.)
Vendor Name:	CITY OF WINTER HAVEN
Vendor ID:	F596000453027
Beginning Date of This Agreement:	11/13/2024
Ending Date of This Agreement:	12/31/2026
Contract Total/Budgetary Ceiling:	ct = $1,475,200.00
Description:	Winter Haven Airport Obstructions Clearing

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR JASON ADANK, CPA, COMPTROLLER ON 11/14/2024

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55012020129
Expansion Option:	A8
Object Code:	751000
Amount:	$1,475,200.00
Financial Project:	45194319401
Work Activity (FCT):	215
CFDA:	
Fiscal Year:	2025
Budget Entity:	55100100
Category/Category Year:	088719/25
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

Total Amount: $1,475,200.00