



REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

MARCH 21, 2023

AGENDA

ALL CITIZENS DESIRING TO ADDRESS THE PORT ORANGE CITY COUNCIL DURING PUBLIC PARTICIPATION SHOULD COMPLETE THE FORM WHICH IS LOCATED ON THE STANDS OUTSIDE THE COUNCIL CHAMBERS. AFTER COMPLETING THE FORM, PRESENT IT TO THE CITY CLERK.

A. OPENING

1. Invocation by Father Matt Mello from Our Lady of Hope Catholic Church
2. Pledge of Allegiance
3. Roll Call

B. RECOGNITION AND PROCLAMATIONS

4. Government Finance Professionals Week
5. World Down Syndrome Day

C. TOWN CENTER CRA REGULAR MEETING

D. EASTPORT CRA REGULAR MEETING

E. ANNUAL CORPORATE MEETING

6. Port Orange Property Development, Inc. Joint Annual Meeting of the Members, Directors and Design Review Board

F. CONSENT AGENDA

7. Public Comments on Consent Agenda Items Only
8. Agenda Approval
9. Approval of Minutes
  - a. February 28, 2023 - City Council Workshop
  - b. March 7, 2023 - City Council Regular Meeting

c. March 7, 2023 - Joint Special City Council & Town Center CRA Meeting

10. Resolution No. 23-12 - Deed of Dedication for public purposes along the south side of Herbert Street, adjacent to 1040 Herbert Street
11. Resolution No. 23-13 - Florida Inland Navigation District (FIND) Grant to Design a Day Dock at Riverwalk Park
12. Adoption of Port Orange City Council Local Rules of Procedure (Local Rules) for 2023
13. Release of a Conservation Easement at 1040 Herbert Street
14. Release of a Temporary Drainage, Utilities, Sidewalks, Maintenance and Ingress/Egress/Access Easement at 1040 Herbert Street
15. Approval of Proportionate Fair-Share Agreement for the Villa Nova Townhomes Site Plan (Case No. 21-80000005)
16. Approval of Proportionate Fair-Share Agreement for the Del Taco Site Plan (Case No. 22-80000011)

G. PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

H. COUNCIL COMMENTS

17. Comments/Concerns from Council Members

I. BOARD APPOINTMENTS, INTERVIEWS, AND REPORTS

18. Citizen Advisory Committee for TPO

J. PUBLIC HEARING

19. First Reading - Ordinance No. 2023-02 - Amending Chapter 2, Article VI, Division 2, Relating to Purchase and Sale Procedure

K. ADDITIONAL ITEMS

20. City Attorney
21. City Manager

L. COUNCIL COMMITTEE REPORTS

22. City Council Committee Reports
  - a. Roundtable of Elected Officials - Mayor Don Burnette
  - b. Port Orange/South Daytona Chamber of Commerce - Mayor Don Burnette

M. ADJOURNMENT

**NOTICES** – PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.



FOR SPECIAL ACCOMMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE.



HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

**IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA)**, IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, [CITYCLERK@PORT-ORANGE.ORG](mailto:CITYCLERK@PORT-ORANGE.ORG), AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

ANY INVOCATION THAT IS OFFERED BEFORE THE OFFICIAL START OF THE CITY COUNCIL MEETING SHALL BE THE VOLUNTARY OFFERING OF A PRIVATE PERSON, TO AND FOR THE BENEFIT OF THE CITY COUNCIL. THE VIEWS OR BELIEFS EXPRESSED BY THE INVOCATION SPEAKER HAVE NOT BEEN PREVIOUSLY REVIEWED OR APPROVED BY THE CITY COUNCIL OR THE CITY STAFF, AND THE CITY IS NOT ALLOWED BY LAW TO ENDORSE THE RELIGIOUS BELIEFS OR VIEWS OF THIS, OR ANY OTHER SPEAKER. PERSONS IN ATTENDANCE AT THE CITY COUNCIL MEETING ARE INVITED TO STAND DURING THE OPENING INVOCATION AND PLEDGE OF ALLEGIANCE. HOWEVER, SUCH INVITATION SHALL NOT BE CONSTRUED AS A DEMAND, ORDER, OR ANY OTHER TYPE OF COMMAND. NO PERSON IN ATTENDANCE AT THE MEETING SHALL BE REQUIRED TO PARTICIPATE IN ANY OPENING INVOCATION THAT IS OFFERED. A PERSON MAY EXIT THE CITY COUNCIL CHAMBERS AND RETURN UPON COMPLETION OF THE OPENING INVOCATION IF A PERSON DOES NOT WISH TO PARTICIPATE IN OR WITNESS THE OPENING INVOCATION.



# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/21/2023

---

**SUBJECT:** (E6) Port Orange Property Development, Inc. Joint Annual Meeting of the Members, Directors and Design Review Board

**DEPARTMENT:** City Attorney

**GOAL:** 6 - Organizational Excellence

---

**RECOMMENDED MOTION:** Please see the attached agenda.

---

**SUMMARY:** Chairman Reed Foley will conduct the joint meeting. Please see the attached notice and agenda for joint meeting.

**PRESENTER:** Reed Foley

---

**ATTACHMENTS:**

|    |                                                       |                                                            |
|----|-------------------------------------------------------|------------------------------------------------------------|
| 1. | Notice of Meeting                                     | Notice of Meeting .pdf                                     |
| 2. | PO PDI & Design Review Board Meeting Minutes 4-5-2022 | PO PDI & Design Review Board Meeting Minutes 4-5-2022.docx |

---

Robin Fenwick  
Shannon Balmer  
Wayne Clark  
Robin Fenwick

Created/Initiated - 12/28/2022  
Approved - 3/6/2023  
Approved - 3/14/2023  
Final Approval - 3/14/2023

---





**NOTICE OF JOINT ANNUAL MEETING  
of Members, Directors and Design Review Board of  
PORT ORANGE PROPERTY DEVELOPMENT, INC.,  
a Florida Not-for-Profit Corporation.**

TO: All Members, Directors, and Design Review Board

Pursuant to the provisions of Article 3.02, Members of the Corporation, and Article 4.03, Board of Directors, of the Bylaws of **PORT ORANGE PROPERTY DEVELOPMENT, INC.**, a Florida Not-for-Profit Corporation

**YOU ARE HEREBY NOTIFIED**

that the joint annual meeting of the Members and of the Board of Directors shall be held on **Tuesday, March 21, 2023, at 6:30 p.m.**, or as soon thereafter as the respective meeting may be called to order, in the City Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida, for the following purposes:

**Agenda for Meeting of Members:**

1. Roll Call (all members of council)
2. Acceptance of Meeting Notice
3. Approval of Minutes of April 5, 2022 for meeting of the Members and Directors
4. Approval of Minutes of April 5, 2022 for meeting of the Design Review Board
5. Election of the Board of Directors;

**Current Board of Directors**

Donald Burnette, Mayor

Reed Foley, Vice-Mayor, City Council District 1 Representative

Tracy Grubbs, Interim City Council District 2 Representative

Drew Bastian, City Council District 3 Representative

Scott Stiltner, City Council District 4 Representative

**Board of Directors to be elected**

City Mayor - Donald Burnette

Vice-Mayor, City Council District 1 Representative - Reed Foley

City Council District 2 Representative - Person elected to Council in the special election, with the interim appointment, Tracy Grubbs, filling the position until the election

City Council District 3 Representative - Drew Bastian

City Council District 4 Representative - Scott Stiltner

6. Such other business as may be brought before the Members of the corporation.

Immediately following the meeting of the members, the Board of Directors shall consider and take action on the following items:

**Agenda for Meeting of Board of Directors:**

7. **Election of officers:**

**Current Officers**

Reed Foley, Chairman, Vice-Mayor, City Council District 1 Representative

Drew Bastian, Vice Chairman, City Council District 3 Representative

Don Burnette, President, Mayor

Scott Stiltner, Vice President, City Council District 4 Representative

Tracy Grubbs, Secretary, Interim City Council District 2 Representative

Jonathan C. McKinney, Treasurer

**Nominations for election of officers:**

A. Chairman: \_\_\_\_\_

B. Vice-Chairman: \_\_\_\_\_

C. President: \_\_\_\_\_

D. Vice President: \_\_\_\_\_

E. Secretary: \_\_\_\_\_

F. Treasurer: \_\_\_\_\_ Finance Director: Jonathan C. McKinney

8. Such other business as may be brought before the Board of Directors.

Immediately following the meeting of the Members and the Board of Directors, the Design Review Board shall consider and take action on the following items:

**Agenda for Meeting of the Design Review Board:**

9. **Election of officers:**

**Current Officers**

Reed Foley, Chairman, Vice-Mayor, City Council District 1 Representative

Tracy Grubbs, Vice-Chairman, Interim City Council District 2 Representative

**Nominations for election of officers:**

A. Chairman: \_\_\_\_\_

B. Vice-Chairman: \_\_\_\_\_

10. Such other business as may be brought before the Design Review Board.

**DATED: March 10, 2023.**

/s/ Tracy Grubbs  
Tracy Grubbs, Secretary

Copy to: Donald Burnette, Mayor  
Reed Foley, Vice Mayor  
Tracy Grubbs, Interim Councilmember  
Scott Stiltner, Councilmember  
Drew Bastian, Councilmember  
Wayne Clark, City Manager  
Matthew J. Jones, City Attorney

**ACCOMMODATIONS IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA).** IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS MEETING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, [CITYCLERK@PORT-ORANGE.ORG](mailto:CITYCLERK@PORT-ORANGE.ORG), AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

PORT ORANGE PROPERTY DEVELOPMENT, INC. and  
DESIGN REVIEW BOARD  
JOINT ANNUAL MEETING MINUTES  
COUNCIL CHAMBERS – CITY HALL  
1000 CITY CENTER CIRCLE  
PORT ORANGE, FLORIDA  
APRIL 5, 2022

THE JOINT ANNUAL MEETING OF MEMBERS, DIRECTORS AND DESIGN REVIEW BOARD OF PORT ORANGE PROPERTY DEVELOPMENT, INC., was called to order by Chairman Chase Tramont at 7:23 p.m.

Roll Call:

Present:

Don Burnette  
Drew Bastian  
Scott Stiltner  
Chase Tramont  
Reed Foley

Also Present:

Wayne Clark, City Manager  
Matthew Jones, City Attorney  
Robin Fenwick, City Clerk

2. Acceptance of meeting notice

There were no objections to the meeting notice.

3. Approval of Minutes of February 16, 2021 for the meeting of the Members & Directors

Motion to approve the Minutes of February 16, 2021 of the meeting of Members & Directors was made by Member Drew Bastian and Seconded by Member Reed Foley. Motion carried unanimously by voice vote.

4. Approval of Minutes of February 16, 2021 for the meeting of the Design Review Board

Motion to approve the Minutes of February 16, 2021 of the meeting of the Design Review Board was made by Member Drew Bastian and Seconded by Member Scott Stiltner. Motion carried unanimously by voice vote.

5. Election of the Board of Directors

Motion to elect City Council District 3 Representative Drew Bastian, City Mayor Donald Burnette, City Council District 4 Representative Scott Stiltner, City Council District 2 Representative Chase Tramont, and City Council District 1 Representative Reed Foley was made by Member Scott Stiltner and Seconded by

Member Drew Bastian. Motion carried unanimously by voice vote.

6. Such other business as may be brought before the Members of the corporation.

There was none.

#### **Election of Officers of the Board of Directors:**

7. Election of officers

- (A) Motion to nominate City Council District 1 Representative Reed Foley as Chairman was made by Member Don Burnette and Seconded by Member Scott Stiltner. Motion carried unanimously by voice vote.
- (B) Motion to nominate City Council District 3 Representative Drew Bastian as Vice Chairman was made by Member Don Burnette and Seconded by Member Scott Stiltner. Motion carried unanimously by voice vote.
- (C) Motion to nominate City Mayor Don Burnette as President was made by Member Don Burnette and Seconded by Member Scott Stiltner. Motion carried unanimously by voice vote.
- (D) Motion to nominate City Council District 4 Representative Scott Stiltner as Vice President was made by Member Don Burnette and Seconded by Member Drew Bastian. Motion carried unanimously by voice vote.
- (E) Motion to nominate City Council District 2 Representative Chase Tramont as Secretary was made by Member Don Burnette and Seconded by Member Scott Stiltner. Motion carried unanimously by voice vote.
- (F) Motion to elect Jonathan C. McKinney, Finance Director as Treasurer was made by Member Scott Stiltner and Seconded by Member Reed Foley. Motion carried unanimously by voice vote.

8. Appointment of new Registered Agent, Finance Director: Jonathan C. McKinney.

Motion to elect Jonathan C. McKinney, Finance Director as Treasurer was made by Member Drew Bastian and Seconded by Member Scott Stiltner. Motion carried unanimously by voice vote.

9. Such other business as may be brought before the Members of the corporation.

There was none.

**Meeting of the Design Review Board:**

10. Election of officers

- (A) Motion to nominate City Council District 1 Representative Reed Foley as Chairman was made by Member Don Burnette and Seconded by Member Scott Stiltner. Motion carried unanimously by voice vote.
- (B) Motion to nominate City Council District 2 Representative Chase Tramont as Vice Chairman was made by Member Don Burnette and Seconded by Member Reed Foley. Motion carried unanimously by voice vote.

There being no further business, the meeting was adjourned at 7:29 p.m.

---

Reed Foley, Chairman

CITY COUNCIL WORKSHOP MINUTES  
COUNCIL CHAMBERS – CITY HALL  
1000 CITY CENTER CIRCLE  
PORT ORANGE, FLORIDA  
FEBRUARY 28, 2023

THE CITY COUNCIL WORKSHOP of the City of Port Orange was called to order by Mayor Donald O. Burnette at 5:30 p.m.

Silent Invocation

Pledge of Allegiance

|           |          |                                                                                                                                |
|-----------|----------|--------------------------------------------------------------------------------------------------------------------------------|
| Roll Call | Present: | Councilman Tracy Grubbs<br>Councilman Drew Bastian<br>Councilman Scott Stiltner<br>Vice Mayor Reed Foley<br>Mayor Don Burnette |
|-----------|----------|--------------------------------------------------------------------------------------------------------------------------------|

|               |                                                                                                |
|---------------|------------------------------------------------------------------------------------------------|
| Also Present: | Wayne Clark, City Manager<br>Matthew Jones, City Attorney<br>Tracee Cody, Assistant City Clerk |
|---------------|------------------------------------------------------------------------------------------------|

DISCUSSION ITEMS

4. State of the City

The State of the City video focusing on the accomplishments throughout 2022 was played.

Mayor Don Burnette spoke on key topics for 2023 including the Riverwalk project, transportation and infrastructure, and the REC Expansion/Renovation.

Council members spoke on other topics including traffic on County and State owned roads, the opening of Fysh Bar & Grill, and the dedicated city staff.

5. Update from Raftelis on Utility Rate Study - Water, Wastewater, Reclaimed Water rates, miscellaneous service charges and fees, Building Rate study and Municipal Impact Fees

Jonathan McKinney, Assistant City Manager/Finance Director, provided a brief overview of the item and turned it over to Henry Thomas, Vice President of Raftelis, and his team.

Joe Williams, Raftelis, discussed the municipal impact fee methodology by reviewing the City's existing impact fees for Fire and Parks and Recreation. He also provided information for the City to develop Police impact fees.

Larry Kiefer, Kiefer Professional Services, LLC, discussed the transportation impact fees methodology. His presentation focused on calculations using recent costs, phased-in increases to comply with current impact fee legislation, minimizing the cost burden of growth, and the 90-day implementation process.

Mark Tuma, Raftelis, discussed building, permitting, and inspection fees. He proposed rate structure modifications for electrical, plumbing, mechanical, and gas permits and a private provider credit.

Council recessed at 6:44 p.m. and reconvened at 6:54 p.m.

Mr. Thomas proposed a monthly user rate adjustment plan for utility rates, an increase in miscellaneous fees, a manufactured housing rate method, and water and wastewater development fees. It was noted that it has been 9 years since the City evaluated water/sewage fees and almost 20 years for impact fees.

Consideration of the new fee structures will be presented at the April 18, 2023, Council meeting.

ADJOURNMENT – 7:58 p.m.

---

Mayor Donald O. Burnette

Attest:

---

Robin Fenwick, MMC  
City Clerk



REGULAR CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS – CITY HALL  
1000 CITY CENTER CIRCLE  
PORT ORANGE, FLORIDA  
MARCH 7, 2023

THE REGULAR CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Donald O. Burnette at 6:30 p.m.

Invocation by Pastor Roxanne Dwyer of Relevant Church

Pledge of Allegiance

|           |               |                                                                                                                                |
|-----------|---------------|--------------------------------------------------------------------------------------------------------------------------------|
| Roll Call | Present:      | Councilman Tracy Grubbs<br>Councilman Drew Bastian<br>Councilman Scott Stiltner<br>Vice Mayor Reed Foley<br>Mayor Don Burnette |
|           | Also Present: | City Manager, Wayne Clark<br>City Attorney, Matt Jones<br>Assistant City Clerk, Tracee Cody                                    |

RECOGNITION AND PROCLAMATIONS

4. Flood Awareness Week Proclamation

Mayor Don Burnette read the proclamation for Flood Awareness Week.

5. American Red Cross Month Proclamation

Mayor Burnette read the proclamation for American Red Cross Month.

Council recessed at 6:36 p.m. to hold the Joint Meeting with the Town Center CRA Board, minutes of which are under separate cover.

CITY COUNCIL/TOWN CENTER CRA JOINT SPECIAL MEETING

Council reconvened at 6:56 p.m.

CONSENT AGENDA

6. Public Comments on Consent Agenda Items Only

There were none.

7. Agenda Approval

Councilman Scott Stiltner asked to pull Items #9b, #9d, and #9e for further discussion.

Motion to approve the agenda as amended was made by Councilman Scott Stiltner and seconded by Councilman Drew Bastian. Motion carried unanimously by voice vote.

8. Approval of Minutes
  - a. February 21, 2023 - Regular City Council Meeting
9. Bid Awards and Contract Items
  - a. Approval of an extension to the Standard Contract for Services (CA6963) with VerdeGo LLC for the SR421/Dunlawton Avenue Median Improvement Maintenance
  - b. Approval to purchase an auxiliary Cat Genset 1000kw generator from Ring Power
  - c. Approval of Amendment No. 2 to the Amended and Restated Agreement CA00674 with G.E.L. Corporation for recyclable materials
  - d. Approval and consent to the assignment of the Motorcycle Lease Agreement CA6953 with Rossmeyer Daytona Motorcycles Inc d/b/a Bruce Rossmeyer's Daytona Harley Davidson Motorcycle (ITB 19-29) to EMAG Daytona HD LLC d/b/a Teddy Morse's Daytona Harley-Davidson
  - e. Approval of Contract with Advanced Roofing for Roof Repair & Replacement Services (RFSQ 22-14)
  - f. Approval to Waive Bidding Requirements for HVAC Services
10. Approval of Sanctuary on Spruce Creek Traffic Enforcement Agreement
11. Approval of the Central Florida Child Abduction Response Team (CART) Mutual Aid Agreement with the Florida Department of Law Enforcement
12. Approval of City of Daytona Beach Shores Automatic License Plate Reader Memorandum of Understanding (MOU)

Motion to approve the Consent Agenda Items #8, #9a, #9c, #9f, and #10-12 was made by Councilman Scott Stiltner and seconded by Vice Mayor Reed Foley. Motion carried unanimously by voice vote.

Item #9b - Approval to purchase an auxiliary Cat Genset 1000kw generator from Ring Power

Motion to approve Item #9b was made by Councilman Scott Stiltner and seconded by Vice Mayor Reed Foley.

Councilman Stiltner questioned the costs among buying a generator from 2007 versus renting or buying a brand new one. Wayne Clark, City Manager, clarified the financial

logic of buying the 2007 one rather than continuing to rent it until the new one is available.

Motion carried unanimously by roll call vote.

Item #9d - Approval and consent to the assignment of the Motorcycle Lease Agreement CA6953 with Rossmeyer Daytona Motorcycles Inc d/b/a Bruce Rossmeyer's Daytona Harley Davidson Motorcycle (ITB 19-29) to EMAG Daytona HD LLC d/b/a Teddy Morse's Daytona Harley-Davidson

Motion to approve was made by Councilman Scott Stiltner and seconded by Vice Mayor Reed Foley.

Councilman Tracy Grubbs abstained from the vote due to conflict of interest as he does business with the Harley Davidson dealership.

Motion carried 4-0-1 by roll call vote with Councilman Grubbs abstaining.

Item #9e - Approval of Contract with Advanced Roofing for Roof Repair & Replacement Services (RFSQ 22-14)

Motion to approve Item #9e was made by Councilman Drew Bastian and seconded by Vice Mayor Reed Foley.

Councilman Stiltner asked for clarification on the Florida statute E-verify requirement. City Attorney, Matt Jones, clarified that every Florida municipality can only accept bids if they meet the E-verify requirements.

Motion carried unanimously by roll call vote.

#### PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

There were none.

#### COUNCIL COMMENTS

##### 13. Comments/Concerns from Council Members

Mayor Burnette reminded citizens about the Port Orange Community Trust's Spring Brew & Fest 2023 event being held the last weekend of March.

#### PUBLIC HEARING

14. Second Reading - Ordinance No. 2023-01 - Rezoning/662 Herbert Street  
(Case No. REZONING-22-0001)

Mayor Don Burnette read Ordinance No. 2023-01.

ORDINANCE NO. 2023-01

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, REZONING PROPERTY CONSISTING OF APPROXIMATELY +2.1 ACRES GENERALLY LOCATED AT 662 HERBERT STREET FROM TWO-FAMILY RESIDENTIAL (R-2D) TO SINGLE-FAMILY RESIDENTIAL (R-10SF); AUTHORIZING REVISION OF THE OFFICIAL ZONING ATLAS; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2023-01 was made by Vice Mayor Reed Foley and seconded by Councilman Drew Bastian. Motion carried unanimously by roll call vote.

15. Approval of the Madeline Commons Final Subdivision Plat and Plans (Case No. 22-50000003)

Motion to approve was made by Vice Mayor Reed Foley and seconded by Councilman Drew Bastian.

Penelope Cruz, Planning Manager, provided details on the request and answered questions from Council.

Eric Gill, resident, expressed his concerns that this would create excessive traffic along Dunlawton. Councilman Stiltner commented that Dunlawton is owned by the State and hopes residents will help advocate with Council to State partners. He also mentioned the changes in the project that reduced density.

Motion carried 3-2 by roll call vote with Councilman Scott Stiltner and Mayor Don Burnette voting no.

REGULAR AGENDA

16. Approval of Lease Agreement with Flagsticks Bar & Grill Inc. for Food and Beverage Service at Cypress Head Golf Course

Motion to approve was made by Vice Mayor Reed Foley and seconded by Councilman Scott Stiltner.

Susan Lovallo, Parks & Recreation Director, provided further details of the agreement and introduced Kevin Hannah, owner, and John Springer, the prospective new owner. Mr. Springer explained his future ideas for the bar & grill and answered questions from Council.

Motion carried unanimously by roll call vote.

#### ADDITIONAL ITEMS

17. City Attorney

There was nothing further.

18. City Manager

Mr. Clark introduced Sharon Kraynik as the new Human Resources Director.

#### COUNCIL COMMITTEE REPORTS

19. City Council Committee Reports

a. River to Sea TPO - Vice Mayor Reed Foley

Vice Mayor Foley provided details from their recent meeting.

b. Fire Pension - Vice Mayor Reed Foley

Vice Mayor Foley provided details of their recent meeting and expressed his concerns regarding the plan.

c. Police Pension - Councilman Drew Bastian

Councilman Bastian provided details from their recent meeting.

d. General Employee's Pension - Councilman Scott Stiltner

Councilman Stiltner provided details from their recent meeting.

ADJOURNMENT – 7:51 p.m.

---

Mayor Donald O. Burnette

Attest:

---

Robin Fenwick, MMC  
City Clerk

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

|                                                          |                          |                                                                                                                      |  |
|----------------------------------------------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------|--|
| LAST NAME—FIRST NAME—MIDDLE NAME<br><b>Grubbs, Tracy</b> |                          | NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE<br><b>City of Port Orange City Council</b>               |  |
| MAILING ADDRESS<br><b>1000 City Center Circle</b>        |                          | THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:                                |  |
| CITY<br><b>Port Orange</b>                               | COUNTY<br><b>Volusia</b> | <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY |  |
| DATE ON WHICH VOTE OCCURRED<br><b>March 7, 2023</b>      |                          | NAME OF POLITICAL SUBDIVISION:<br><b>City of Port Orange</b>                                                         |  |
|                                                          |                          | MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE <i>(Interim)</i>    |  |

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

## APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

## DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Tracy Grubbs, hereby disclose that on March 7, 20 23

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- ☒ inured to the special gain or loss of my relative, Billy R. GRUBBS;
- ☐ inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

My father is employed by EMAG Daytona HD LLC d/b/a Teddy Morse's Daytona Harley-Davidson who has purchased the assets of Rossmeyer Daytona Motorcycles, Inc. and is requesting assignment of the lease for the City's police motorcycles.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

March 7, 2023

Date Filed

  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

PORT ORANGE CITY COUNCIL & TOWN CENTER CRA  
JOINT SPECIAL MEETING MINUTES  
COUNCIL CHAMBERS – CITY HALL  
1000 CITY CENTER CIRCLE  
PORT ORANGE, FLORIDA  
MARCH 7, 2023

THE JOINT SPECIAL MEETING OF THE PORT ORANGE CITY COUNCIL AND  
TOWN CENTER CRA was called to order by Mayor Donald O. Burnette at 6:37 p.m.

|           |               |                                                                                                                                   |
|-----------|---------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Roll Call | Present:      | Councilman Tracy Grubbs<br>Councilman Drew Bastian<br>Councilman Scott Stiltner<br>Vice Mayor Reed Foley<br>Mayor Donald Burnette |
|           | CRA Members:  | Michael Benedict<br>Donald Burnette<br>Drew Bastian<br>Scott Stiltner<br>Reed Foley<br>Tracy Grubbs                               |
|           | Also Present: | City Manager Wayne Clark<br>City Attorney Matthew Jones<br>Assistant City Clerk Tracee Cody                                       |

2. Nomination of Chair

Motion to nominate Reed Foley as  
Chairman was made by Member  
Bastian and seconded by Member  
Stiltner. Motion carried unanimously by  
voice vote.

3. Nomination of Vice Chair

Motion to nominate Scott Stiltner as  
Vice Chairman was made by Member  
Foley and seconded by Member  
Bastian. Motion carried unanimously by  
voice vote.

PROOF OF NOTICE OF MEETING OR WAIVER OF NOTICE

There were no objections to the notice of the meeting and the notice was accepted.

DISCUSSION/ACTION



4. Approval of First Amendment to the Contract for Sale of Riverwalk Property to Bristol Development Group

Tim Burman, Community Development Director, provided details of the positive changes being made to the development project that has created the need for additional time.

Charles Carlisle, with Bristol Development Group, explained some of the delays they have encountered in purchasing additional properties to enhance the development project and the need to request additional time.

Robert Reinhausen, resident, commented on his concern about when Bristol would take possession of the property.

CRA: Motion to approve the First Amendment to the Contract for the Sale of Riverwalk Property to Bristol Development Group, LLC and authorize Chairman to execute all necessary documents was made by Member Burnette and seconded by Member Bastian. Motion carried unanimously by roll call vote.

Council: Motion to approve the First Amendment to the Contract for the Sale of Riverwalk Property to Bristol Development Group, LLC and authorize Mayor and City Clerk to sign all necessary documents was made by Vice Mayor Foley and seconded by Councilman Bastian. Motion carried unanimously by roll call vote.

There was no further business to be brought before the members of the Town Center Redevelopment Agency and City Council.

ADJOURNMENT – 6:56 p.m.

---

Chair: Reed Foley



# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/21/2023

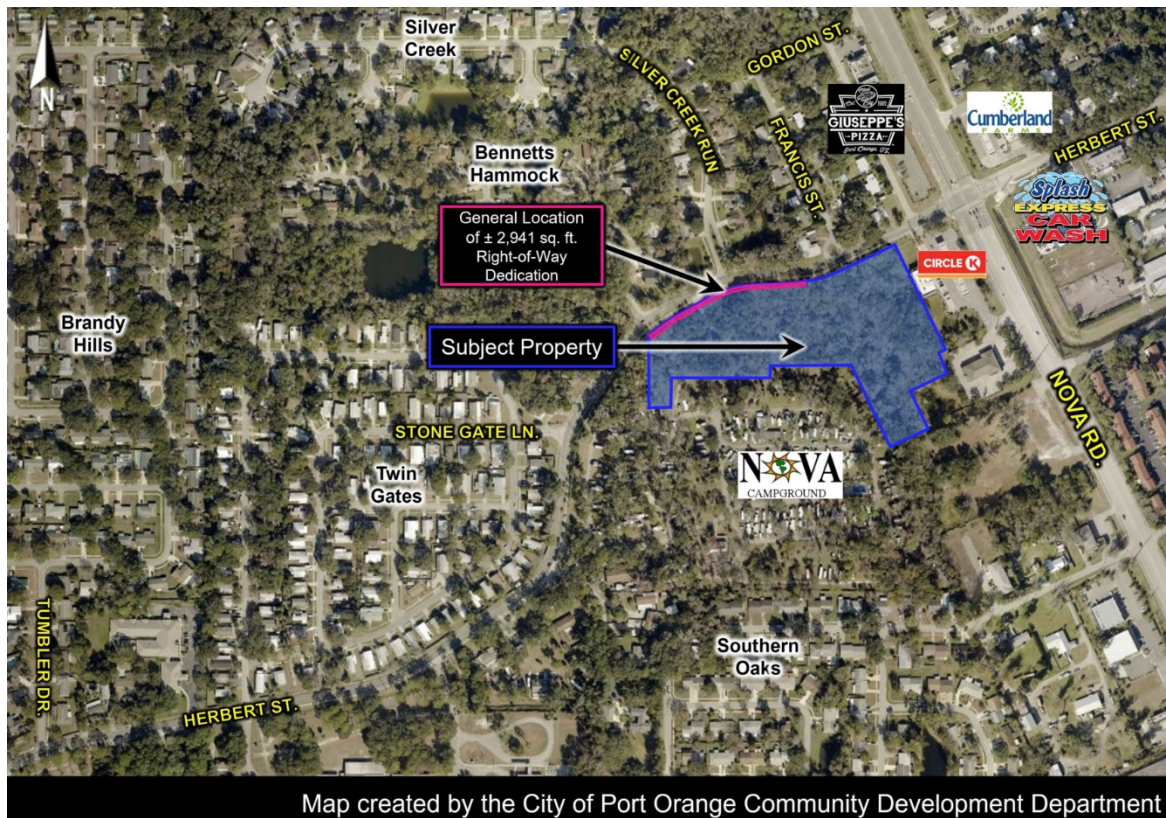
**SUBJECT:** (F10) Resolution No. 23-12 - Deed of Dedication for public purposes along the south side of Herbert Street, adjacent to 1040 Herbert Street

**DEPARTMENT:** Community Development

**GOAL:** 2 - Infrastructure

**RECOMMENDED MOTION:** Move to approve Resolution No. 23-12.

**SUMMARY:** As part of the site improvements at 1040 Herbert Street (Villa Nova Townhomes), the property owner is required by the Land Development Code (LDC) to dedicate +/- 5 of right-of-way (+/-2,941 square feet) along the south side of Herbert Street prior to the completion of the site development. The Villa Nova development includes 77 townhome units along with associated site improvements.



---

The right-of-way dedication pertains to the area along the south side of the property adjacent to Herbert Street. According to the LDC, the ultimate right-of-way width for the section of Herbert Street between Tumbler Drive and just west of Francis Street is 70 feet wide. Currently, the width of the Herbert Street right-of-way at the subject property is 60 feet; therefore, an additional 5 feet is needed on either side of the existing right-of-way. The LDC requires the additional right-of-way for future roadway improvements to Herbert Street.

The Villa Nova Townhome development site currently has a Future Land Use designation of Urban High-Density Residential (8-16 units/acre) and is currently zoned R-3H Multi-Family Residential (up to 16 units/acre), which allows for the proposed residential development and density. The Villa Nova Townhome development consists of 77 units on +/- 7.3 acres, with a density of 10.5 units/acre. The site plan for the proposed project has been reviewed at the staff level and may be approved once all Land Development Code requirements have been met and the required fair-share mitigation payment has been received.

**PRESENTER:** Penelope Cruz, Tim Burman

---

**ATTACHMENTS:**

|    |                                   |                                       |
|----|-----------------------------------|---------------------------------------|
| 1. | Resolution No. 23-12 with exhibit | Resolution No. 23-12 with exhibit.pdf |
| 2. | Deed of Dedication Villa Nova     | 321 Deed of Dedication Villa Nova.pdf |

---

|                |                               |
|----------------|-------------------------------|
| Penelope Cruz  | Created/Initiated - 1/12/2023 |
| Tim Burman     | Approved - 3/1/2023           |
| Shannon Balmer | Approved - 3/8/2023           |
| Wayne Clark    | Approved - 3/14/2023          |
| Robin Fenwick  | Final Approval - 3/14/2023    |

---

RESOLUTION NO. 23-12

A RESOLUTION OF THE CITY OF PORT ORANGE,  
VOLUSIA COUNTY, FLORIDA, ACCEPTING A DEED OF  
DEDICATION CONVEYING APPROXIMATELY 5 FEET OF  
ADDITIONAL RIGHT-OF-WAY FOR PUBLIC USE;  
PROVIDING FOR CONFLICTING RESOLUTIONS;  
PROVIDING FOR SEVERABILITY; AND PROVIDING FOR  
AN EFFECTIVE DATE.

WHEREAS, Villa Nova 8.0, LLC is willing to convey to the City of Port Orange, Florida certain real property for the purpose of right-of way improvements; and

WHEREAS, Villa Nova, LLC has executed and presented to the City of Port Orange, Florida, a Deed of Dedication, attached hereto as **EXHIBIT “1”**, incorporated herein and made a part hereof by reference; and

WHEREAS, said deed conveys lands necessary for future roadway improvements to the Herbert Street right-of-way; and

WHEREAS, it is in the best interest of the City to accept the Deed of Dedication for purposes stated herein; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution.

Section 2. The City Council of the City of Port Orange, Florida hereby accepts the Deed of Dedication, attached hereto.

Section 3. The City Council of the City of Port Orange, Florida has determined that the acquisition of the aforesaid property is for a public purpose.

Section 4. All resolutions or parts of resolutions in conflict with the provisions of this resolutions are hereby repealed to the extent of such conflict.

Section 5. If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this resolutions which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared severable.

Section 6. This resolution shall become effective immediately upon adoption.

\_\_\_\_\_  
MAYOR DONALD O. BURNETTE

ATTEST:

\_\_\_\_\_  
Robin L. Fenwick, MMC, City Clerk

Adopted on this \_\_\_\_\_ day of \_\_\_\_\_ 2023

Reviewed and Approved: \_\_\_\_\_  
Shannon K. Balmer, Assistant City Attorney

# EXHIBIT "1"

Prepared by:  
Shannon K. Balmer,  
Assistant City Attorney  
City of Port Orange  
1000 City Center Circle  
Port Orange, Florida 32129

A portion of Parcel No. 6337-01-24-0011

## Deed of Dedication (Right-of-Way)

**This Ded of Dedication**, is made and executed this \_\_\_\_ day of March, 2023, between **VILLA NOVA 8.0, LLC**, a Florida limited liability company, whose mailing address is 3817 s. Nova Rd. Ste. 104-163, Port Orange, FL 32127 hereinafter referred to as, "Dedicator;" and **CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation**, of the County of Volusia in the State of Florida, post office address: Attn: City Manager, 1000 City Center Circle, Port Orange, FL 32129-4144, "City."

### WITNESSETH:

That the said Dedicator, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to said Dedicator, in hand paid by the City, the receipt and sufficiency of which is hereby acknowledged, by these presents does hereby dedicate, release, remise, and quit-claim unto the City, its successors and assigns forever, for the purposes of a right-of-way for a public road and appurtenances, all that certain land lying and being in the County of Volusia, State of Florida, being more particularly described as follows:

### SEE ATTACHED EXHIBIT "A"

**TO HAVE AND TO HOLD** the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all of the estate, right, title, interest, lien, equity, and claim whatsoever of the Dedicator, either in law or equity forever.

**CITY**, by accepting this Dedication, obligates itself to forever preserve and use the property dedicated herein for the purpose recited above, and such other public purposes deemed desirable by City.

**AND** the said Dedicator hereby covenants with City that the Dedicator is lawfully seized of said land in fee simple; that the Dedicator has good right and lawful authority to dedicate and convey said land; that the Dedicator does hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances.

**IN WITNESS WHEREOF**, the said Dedicator has caused this *Deed of Dedication* to be executed on its behalf the day and year first above written.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Dedicator:  
VILLA NOVA 8.0, LLC  
a Florida limited liability company

By: \_\_\_\_\_  
Felix Amon, Manager

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing *Deed of Dedication* was sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by Felix Amon, **Manager of VILLA NOVA 8.0, LLC** a Florida limited liability company, who [\_\_\_\_] is personally known to me, or [\_\_\_\_] have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
*Commission Number, Date of Commission, Expiration, and Seal*

**EXHIBIT "A"**  
**RIGHT OF WAY DEDICATION**

**DESCRIPTION:**

PORTIONS OF TRACT 4, TRACT 5 AND TRACT 6 OF THE REPLAT OF A PORTION OF THE DIVISION OF LOT 5, SECTION 5, TOWNSHIP 16 SOUTH, RANGE 33 EAST, AS RECORDED IN PLAT BOOK 34, PAGE 14, OF PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST OF SAID TRACT 6; THENCE SOUTH 25°29'38" EAST ALONG THE NORTHEAST LINE OF SAID TRACT 6, A DISTANCE OF 5.21 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS 720.59 FEET, WHOSE RADIUS BEARS NORTH 09°04'55" WEST, A CHORD BEARING OF SOUTH 83°59'20" WEST AND CHORD DISTANCE OF 77.21 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°08'30", A DISTANCE OF 77.24 FEET; THENCE SOUTH 87°03'35" WEST, A DISTANCE OF 132.89 FEET TO A POINT ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 279.07 FEET, A CHORD BEARING OF SOUTH 73°56'15" WEST AND CHORD DISTANCE OF 126.71 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 26°14'40", A DISTANCE OF 127.83 FEET; THENCE SOUTH 60°48'55" WEST, A DISTANCE OF 106.23 FEET TO A POINT ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 939.14 FEET, A CHORD BEARING OF SOUTH 57°54'27" WEST AND CHORD DISTANCE OF 95.28 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°48'56", A DISTANCE OF 95.32 FEET TO A POINT ON THE ARC OF COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 394.63 FEET, A CHORD BEARING OF SOUTH 51°24'12" WEST AND CHORD DISTANCE OF 50.20 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE 07°17'34", A DISTANCE OF 50.23 FEET TO THE WEST LINE OF SAID TRACT 4; THENCE NORTH 00°13'10" WEST ALONG SAID WEST LINE OF TRACT 4, A DISTANCE OF 6.70 FEET TO A POINT ON THE ARC OF CURVE OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS 399.63 FEET, WHOSE RADIUS BEARS SOUTH 41°38'57" EAST, A CHORD BEARING OF NORTH 51°40'31" EAST AND CHORD DISTANCE OF 46.35 FEET, SAID POINT BEING IN THE SOUTHERLY RIGHT OF WAY LINE OF WEST HERBERT STREET AS SHOWN ON SAID REPLAT OF A PORTION OF THE DIVISION OF LOT 5, SECTION 5, TOWNSHIP 16 SOUTH, RANGE 33 EAST, AS RECORDED IN PLAT BOOK 34, PAGE 14, OF SAID PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE ON SAID SOUTHERLY RIGHT OF WAY LINE OF WEST HERBERT STREET THE FOLLOWING SIX (6) COURSES AND DISTANCES: THENCE (1) NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°38'56", A DISTANCE OF 46.38 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 944.14 FEET, A CHORD BEARING OF NORTH 57°54'27" EAST AND CHORD DISTANCE OF 95.79 FEET; THENCE (2) NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°48'56", A DISTANCE OF 95.83 FEET; THENCE (3) NORTH 60°48'55" EAST, A DISTANCE OF 106.23 FEET TO A POINT ON THE ARC OF CURVE TO THE RIGHT HAVING A RADIUS OF 284.07 FEET, A CHORD BEARING OF NORTH 73°56'15" EAST AND CHORD DISTANCE OF 128.98 FEET; THENCE (4) EASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE 26°14'40", A DISTANCE OF 130.12 FEET; THENCE (5) NORTH 87°03'35" EAST, A DISTANCE OF 132.89 FEET TO A POINT ON THE ARC OF CURVE TO THE LEFT HAVING A RADIUS OF 715.59 FEET, A CHORD BEARING OF NORTH 84°02'52" EAST AND CHORD DISTANCE OF 75.20 FEET; THENCE (6) EASTERLY ALONG SAID ARC THROUGH A CENTRAL ANGLE 06°01'26", A DISTANCE OF 75.23 FEET TO POINT OF BEGINNING.

CONTAINING 2,941 SQUARE FEET OR 0.0675 ACRES, MORE OR LESS.

**CERTIFICATE:**

I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF SKETCH OF DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON JANUARY 10, 2023. I FURTHER CERTIFY THAT THIS SKETCH OF DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN RULE 5J-17 ADOPTED BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES 472.027.

**SHEET 1 OF 3**



CAULFIELD & WHEELER, INC.  
CIVIL ENGINEERING  
LANDSCAPE ARCHITECTURE – SURVEYING  
7900 GLADES ROAD – SUITE 100  
BOCA RATON, FLORIDA 33434  
PHONE (561)-392-1991 / FAX (561)-750-1452

DAVID P. LINDLEY  
REGISTERED LAND  
SURVEYOR NO. 5005  
STATE OF FLORIDA  
L.B. 3591

|           |          |
|-----------|----------|
| DATE      | 1/10/23  |
| DRAWN BY  | GC       |
| F.B./ PG. | N/A      |
| SCALE     | AS SHOWN |
| JOB NO.   | 10307 SD |

SKETCH OF DESCRIPTION  
WEST HERBERT STREET DEDICATION  
CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA



**EXHIBIT "A"**  
**RIGHT OF WAY DEDICATION**

**SURVEYOR'S NOTES:**

1. SURVEY MAPS OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE ORIGINAL SEAL, OR THE AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OF A FLORIDA LICENSED PROFESSIONAL LAND SURVEYOR AND MAPPER.
2. ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
3. LANDS SHOWN HEREON WERE NOT ABSTRACTED, BY THE SURVEYOR, FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
4. BEARINGS SHOWN HEREON ARE RELATIVE TO REPLAT OF A PORTION OF THE DIVISION OF LOT 5, SECTION 5, TOWNSHIP 16 SOUTH, RANGE 33 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 14, VOLUSIA COUNTY RECORDS, WITH THE EAST LINE HAVING A BEARING OF SOUTH 25°29'38" EAST.
5. THE "DESCRIPTION" SHOWN HEREON WAS PREPARED BY THE SURVEYOR.
6. INSTRUMENTS OF RECORD SHOWN HEREON ARE RECORDED IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, UNLESS OTHERWISE SHOWN.

**LEGEND ABBREVIATIONS:**

|                           |                             |
|---------------------------|-----------------------------|
| ☉ - CENTERLINE            | (P) - DATA PER PLAT         |
| △ - DELTA (CENTRAL ANGLE) | PB. - PLAT BOOK             |
| CHB - CHORD BEARING       | PG. - PAGE                  |
| CHD - CHORD DISTANCE      | P.O.B. - POINT OF BEGINNING |
| L - ARC LENGTH            | R - RADIUS                  |
| LB - LICENSED BUSINESS    | R/W - RIGHT-OF-WAY          |

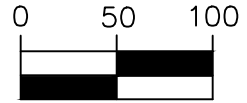
**SHEET 2 OF 3**



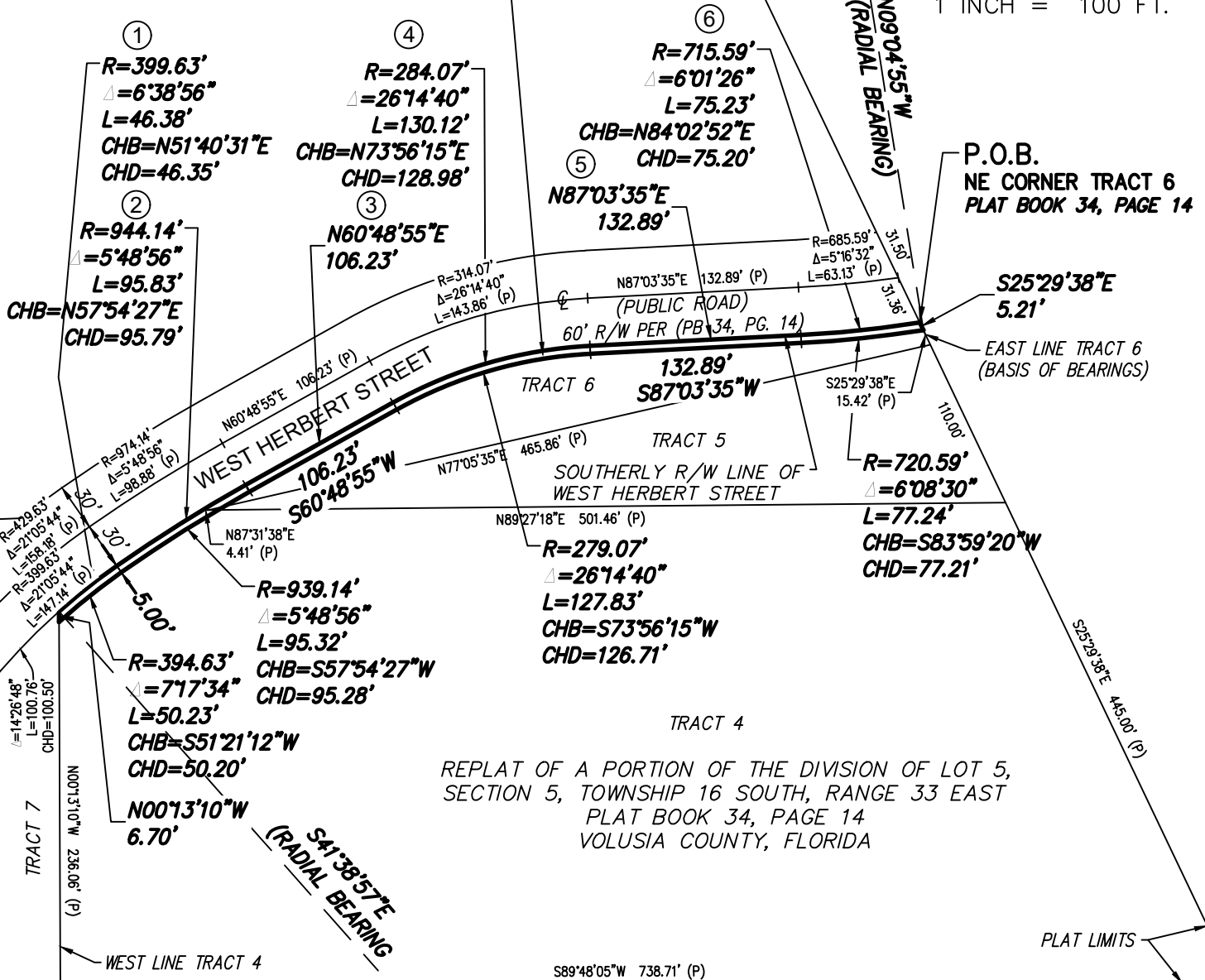
CAULFIELD & WHEELER, INC.  
CIVIL ENGINEERING  
LANDSCAPE ARCHITECTURE - SURVEYING  
7900 GLADES ROAD - SUITE 100  
BOCA RATON, FLORIDA 33434  
PHONE (561)-392-1991 / FAX (561)-750-1452

SKETCH OF DESCRIPTION  
WEST HERBERT STREET DEDICATION  
CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA

|           |          |
|-----------|----------|
| DATE      | 1/10/23  |
| DRAWN BY  | GC       |
| F.B./ PG. | N/A      |
| SCALE     | AS SHOWN |
| JOB NO.   | 10307 SD |



**5.00 FEET R/W DEDICATION -  
AREA = 2,941 SQUARE FEET  
0.0675 ACRES**



|           |          |
|-----------|----------|
| DATE      | 1/10/23  |
| DRAWN BY  | GC       |
| F.B./ PG. | N/A      |
| SCALE     | AS SHOWN |
| JOB NO.   | 10307 SD |

Page 30 of 30

Prepared by:  
Shannon K. Balmer,  
Assistant City Attorney  
City of Port Orange  
1000 City Center Circle  
Port Orange, Florida 32129

A portion of Parcel No. 6337-01-24-0011

## Deed of Dedication (Right-of-Way)

**This Ded of Dedication**, is made and executed this \_\_\_\_\_ day of March, 2023, between **VILLA NOVA 8.0, LLC**, a Florida limited liability company, whose mailing address is 3817 s. Nova Rd. Ste. 104-163, Port Orange, FL 32127 hereinafter referred to as, “Dedicator;” and **CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation**, of the County of Volusia in the State of Florida, post office address: Attn: City Manager, 1000 City Center Circle, Port Orange, FL 32129-4144, “City.”

### WITNESSETH:

That the said Dedicator, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to said Dedicator, in hand paid by the City, the receipt and sufficiency of which is hereby acknowledged, by these presents does hereby dedicate, release, remise, and quit-claim unto the City, its successors and assigns forever, for the purposes of a right-of-way for a public road and appurtenances, all that certain land lying and being in the County of Volusia, State of Florida, being more particularly described as follows:

### SEE ATTACHED EXHIBIT “A”

**TO HAVE AND TO HOLD** the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all of the estate, right, title, interest, lien, equity, and claim whatsoever of the Dedicator, either in law or equity forever.

**CITY**, by accepting this Dedication, obligates itself to forever preserve and use the property dedicated herein for the purpose recited above, and such other public purposes deemed desirable by City.

**AND** the said Dedicator hereby covenants with City that the Dedicator is lawfully seized of said land in fee simple; that the Dedicator has good right and lawful authority to dedicate and convey said land; that the Dedicator does hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances.

**IN WITNESS WHEREOF**, the said Dedicator has caused this *Deed of Dedication* to be executed on its behalf the day and year first above written.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Dedicator:  
VILLA NOVA 8.0, LLC  
a Florida limited liability company

By: \_\_\_\_\_  
Felix Amon, Manager

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing *Deed of Dedication* was sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by Felix Amon, **Manager of VILLA NOVA 8.0, LLC** a Florida limited liability company, who [\_\_\_\_] is personally known to me, or [\_\_\_\_] have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
*Commission Number, Date of Commission, Expiration, and Seal*

**EXHIBIT "A"**  
**RIGHT OF WAY DEDICATION**

**DESCRIPTION:**

PORTIONS OF TRACT 4, TRACT 5 AND TRACT 6 OF THE REPLAT OF A PORTION OF THE DIVISION OF LOT 5, SECTION 5, TOWNSHIP 16 SOUTH, RANGE 33 EAST, AS RECORDED IN PLAT BOOK 34, PAGE 14, OF PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST OF SAID TRACT 6; THENCE SOUTH 25°29'38" EAST ALONG THE NORTHEAST LINE OF SAID TRACT 6, A DISTANCE OF 5.21 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS 720.59 FEET, WHOSE RADIUS BEARS NORTH 09°04'55" WEST, A CHORD BEARING OF SOUTH 83°59'20" WEST AND CHORD DISTANCE OF 77.21 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°08'30", A DISTANCE OF 77.24 FEET; THENCE SOUTH 87°03'35" WEST, A DISTANCE OF 132.89 FEET TO A POINT ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 279.07 FEET, A CHORD BEARING OF SOUTH 73°56'15" WEST AND CHORD DISTANCE OF 126.71 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 26°14'40", A DISTANCE OF 127.83 FEET; THENCE SOUTH 60°48'55" WEST, A DISTANCE OF 106.23 FEET TO A POINT ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 939.14 FEET, A CHORD BEARING OF SOUTH 57°54'27" WEST AND CHORD DISTANCE OF 95.28 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°48'56", A DISTANCE OF 95.32 FEET TO A POINT ON THE ARC OF COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 394.63 FEET, A CHORD BEARING OF SOUTH 51°24'12" WEST AND CHORD DISTANCE OF 50.20 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE 07°17'34", A DISTANCE OF 50.23 FEET TO THE WEST LINE OF SAID TRACT 4; THENCE NORTH 00°13'10" WEST ALONG SAID WEST LINE OF TRACT 4, A DISTANCE OF 6.70 FEET TO A POINT ON THE ARC OF CURVE OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS 399.63 FEET, WHOSE RADIUS BEARS SOUTH 41°38'57" EAST, A CHORD BEARING OF NORTH 51°40'31" EAST AND CHORD DISTANCE OF 46.35 FEET, SAID POINT BEING IN THE SOUTHERLY RIGHT OF WAY LINE OF WEST HERBERT STREET AS SHOWN ON SAID REPLAT OF A PORTION OF THE DIVISION OF LOT 5, SECTION 5, TOWNSHIP 16 SOUTH, RANGE 33 EAST, AS RECORDED IN PLAT BOOK 34, PAGE 14, OF SAID PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE ON SAID SOUTHERLY RIGHT OF WAY LINE OF WEST HERBERT STREET THE FOLLOWING SIX (6) COURSES AND DISTANCES: THENCE (1) NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°38'56", A DISTANCE OF 46.38 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 944.14 FEET, A CHORD BEARING OF NORTH 57°54'27" EAST AND CHORD DISTANCE OF 95.79 FEET; THENCE (2) NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°48'56", A DISTANCE OF 95.83 FEET; THENCE (3) NORTH 60°48'55" EAST, A DISTANCE OF 106.23 FEET TO A POINT ON THE ARC OF CURVE TO THE RIGHT HAVING A RADIUS OF 284.07 FEET, A CHORD BEARING OF NORTH 73°56'15" EAST AND CHORD DISTANCE OF 128.98 FEET; THENCE (4) EASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE 26°14'40", A DISTANCE OF 130.12 FEET; THENCE (5) NORTH 87°03'35" EAST, A DISTANCE OF 132.89 FEET TO A POINT ON THE ARC OF CURVE TO THE LEFT HAVING A RADIUS OF 715.59 FEET, A CHORD BEARING OF NORTH 84°02'52" EAST AND CHORD DISTANCE OF 75.20 FEET; THENCE (6) EASTERLY ALONG SAID ARC THROUGH A CENTRAL ANGLE 06°01'26", A DISTANCE OF 75.23 FEET TO POINT OF BEGINNING.

CONTAINING 2,941 SQUARE FEET OR 0.0675 ACRES, MORE OR LESS.

**CERTIFICATE:**

I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF SKETCH OF DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON JANUARY 10, 2023. I FURTHER CERTIFY THAT THIS SKETCH OF DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN RULE 5J-17 ADOPTED BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES 472.027.

**SHEET 1 OF 3**



CAULFIELD & WHEELER, INC.  
CIVIL ENGINEERING  
LANDSCAPE ARCHITECTURE – SURVEYING  
7900 GLADES ROAD – SUITE 100  
BOCA RATON, FLORIDA 33434  
PHONE (561)-392-1991 / FAX (561)-750-1452

DAVID P. LINDLEY  
REGISTERED LAND  
SURVEYOR NO. 5005  
STATE OF FLORIDA  
L.B. 3591

|           |          |
|-----------|----------|
| DATE      | 1/10/23  |
| DRAWN BY  | GC       |
| F.B./ PG. | N/A      |
| SCALE     | AS SHOWN |
| JOB NO.   | 10307 SD |

SKETCH OF DESCRIPTION  
WEST HERBERT STREET DEDICATION  
CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA

**EXHIBIT "A"**  
**RIGHT OF WAY DEDICATION**

**SURVEYOR'S NOTES:**

1. SURVEY MAPS OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE ORIGINAL SEAL, OR THE AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OF A FLORIDA LICENSED PROFESSIONAL LAND SURVEYOR AND MAPPER.
2. ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
3. LANDS SHOWN HEREON WERE NOT ABSTRACTED, BY THE SURVEYOR, FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
4. BEARINGS SHOWN HEREON ARE RELATIVE TO REPLAT OF A PORTION OF THE DIVISION OF LOT 5, SECTION 5, TOWNSHIP 16 SOUTH, RANGE 33 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 14, VOLUSIA COUNTY RECORDS, WITH THE EAST LINE HAVING A BEARING OF SOUTH 25°29'38" EAST.
5. THE "DESCRIPTION" SHOWN HEREON WAS PREPARED BY THE SURVEYOR.
6. INSTRUMENTS OF RECORD SHOWN HEREON ARE RECORDED IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, UNLESS OTHERWISE SHOWN.

**LEGEND ABBREVIATIONS:**

|                           |                             |
|---------------------------|-----------------------------|
| ☉ - CENTERLINE            | (P) - DATA PER PLAT         |
| △ - DELTA (CENTRAL ANGLE) | PB. - PLAT BOOK             |
| CHB - CHORD BEARING       | PG. - PAGE                  |
| CHD - CHORD DISTANCE      | P.O.B. - POINT OF BEGINNING |
| L - ARC LENGTH            | R - RADIUS                  |
| LB - LICENSED BUSINESS    | R/W - RIGHT-OF-WAY          |

**SHEET 2 OF 3**

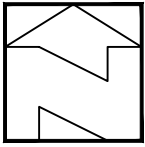


CAULFIELD & WHEELER, INC.  
CIVIL ENGINEERING  
LANDSCAPE ARCHITECTURE - SURVEYING  
7900 GLADES ROAD - SUITE 100  
BOCA RATON, FLORIDA 33434  
PHONE (561)-392-1991 / FAX (561)-750-1452

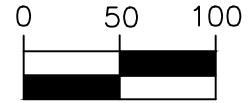
SKETCH OF DESCRIPTION  
WEST HERBERT STREET DEDICATION  
CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA

|           |          |
|-----------|----------|
| DATE      | 1/10/23  |
| DRAWN BY  | GC       |
| F.B./ PG. | N/A      |
| SCALE     | AS SHOWN |
| JOB NO.   | 10307 SD |

# EXHIBIT "A" RIGHT OF WAY DEDICATION

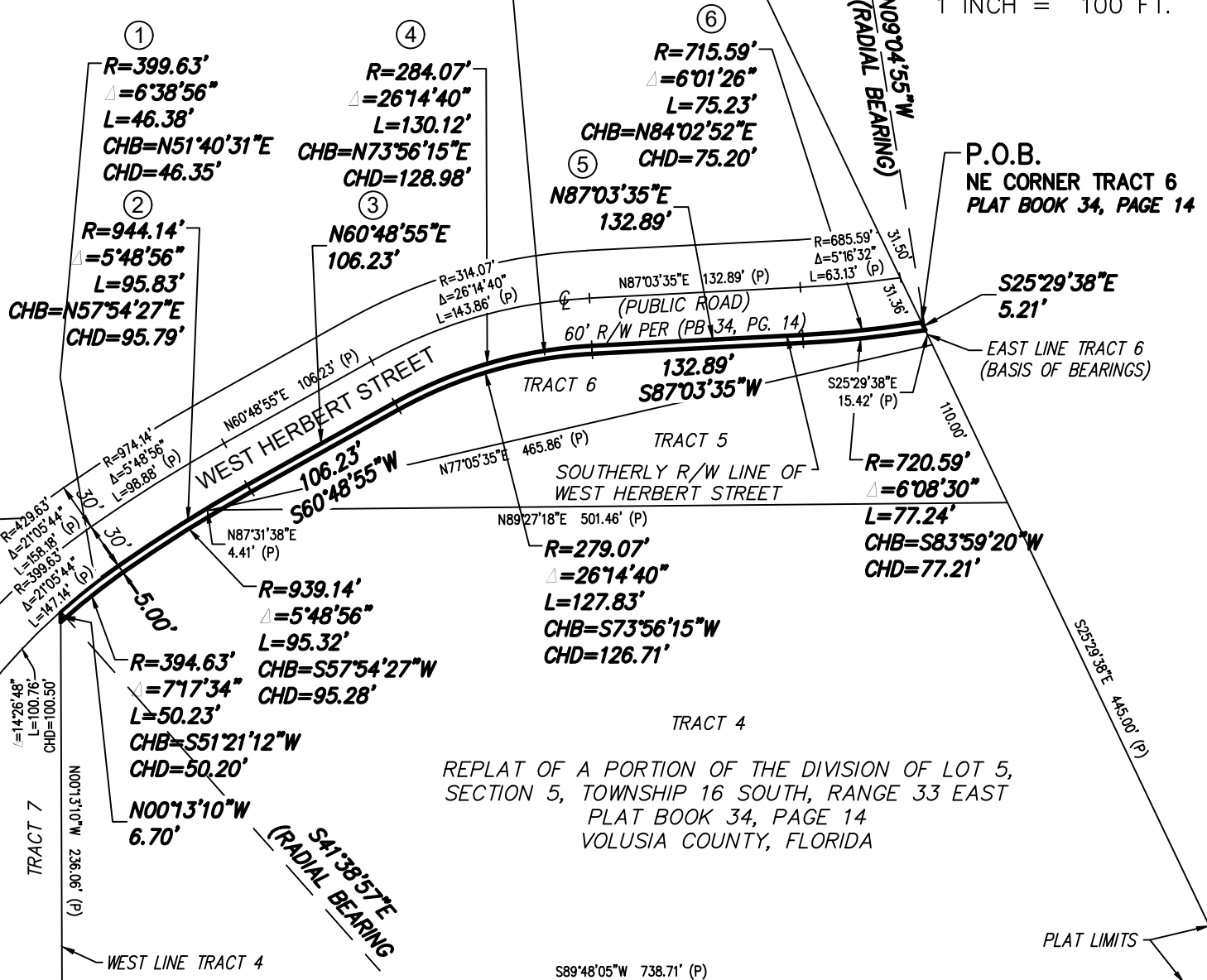


## GRAPHIC SCALE



( IN FEET )  
1 INCH = 100 FT.

**5.00 FEET R/W DEDICATION  
AREA = 2,941 SQUARE FEET  
0.0675 ACRES**



REPLAT OF A PORTION OF THE DIVISION OF LOT 5,  
SECTION 5, TOWNSHIP 16 SOUTH, RANGE 33 EAST  
PLAT BOOK 34, PAGE 14  
VOLUSIA COUNTY, FLORIDA

**SHEET 3 OF 3**



**CAULFIELD & WHEELER, INC.**  
CIVIL ENGINEERING  
LANDSCAPE ARCHITECTURE - SURVEYING  
7900 GLADES ROAD - SUITE 100  
BOCA RATON, FLORIDA 33434  
PHONE (561)-392-1991 / FAX (561)-750-1452

SKETCH OF DESCRIPTION  
WEST HERBERT STREET DEDICATION  
CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA

|           |          |
|-----------|----------|
| DATE      | 1/10/23  |
| DRAWN BY  | GC       |
| F.B./ PG. | N/A      |
| SCALE     | AS SHOWN |
| JOB NO.   | 10307 SD |



# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/21/2023

---

**SUBJECT:** (F11) Resolution No. 23-13 - Florida Inland Navigation District (FIND) Grant to Design a Day Dock at Riverwalk Park

**DEPARTMENT:** Community Development

**GOAL:** 2 - Infrastructure and 3 - Quality of Life

---

**RECOMMENDED MOTION:** Move to approve Resolution No. 23-13 and authorize the city manager to sign the application and all other associated documents.

---

**SUMMARY:** Each year, the Florida Inland Navigation District (FIND) issues a call to local governments to submit public waterway improvement projects, such as public navigation, public waterway access facilities, waterfront parks, environmental education, and boating safety projects to be eligible for funding. If a project is selected by FIND and the City chooses to fund it, the project will generally require a 50% local government match.

The submittal of an application to FIND is the first step for a project to be selected for and receive funding for design and permitting. Community Development staff requests City Council approval to apply for funds for the design and permitting of a day dock for boats and future water taxi service in the general area of Riverwalk Park (Exhibit A). This action does not obligate the City to fund this project, only for staff to apply to FIND.

If this project is selected, and the City chooses to fund it, the project will require a 50% local government match. With this project, the city pays for the design and permitting upfront and is then reimbursed. The total estimated cost to design and permit this project is \$183,000 and the city will be requesting \$91,500 from FIND. The City's match will be requested in the FY 24-28 Capital Improvement Plan.

If this project is selected, the design and permitting of the day dock are anticipated to begin in October 2023 if the FIND grant is awarded in September 2023. Staff anticipates applying for a separate FIND grant next March 2024 to request construction funding for the day dock. In future years, staff also plans to apply for FIND grants for design, permitting, and construction funds for other waterway improvement projects in the Riverwalk and Down Under areas of the Port Orange Town Center CRA, such as, a boardwalk along the north side of the Dunlawton Bridge from Halifax Drive to the west end of Causeway Park and a day dock for boats and future water taxi service in the Down Under area (Exhibit B).



PRESENTER: Tim Burman

---

**ATTACHMENTS:**

|    |                                                            |                                                                |
|----|------------------------------------------------------------|----------------------------------------------------------------|
| 1. | FIND Resolution No 23-13                                   | FIND Resolution No 23-13.pdf                                   |
| 2. | Exhibit A - FIND Riverwalk Day Dock                        | Exhibit A - FIND Riverwalk Day Dock.pdf                        |
| 3. | Exhibit B - FIND Master Plan -<br>Riverwalk and Down Under | Exhibit B - FIND Master Plan - Riverwalk<br>and Down Under.pdf |

---

|                |                              |
|----------------|------------------------------|
| Robin Fenwick  | Created/Initiated - 3/9/2023 |
| Tim Burman     | Approved - 3/10/2023         |
| John McKinney  | Approved - 3/14/2023         |
| Shannon Balmer | Approved - 3/16/2023         |
| Wayne Clark    | Approved - 3/16/2023         |
| Tracee Cody    | Final Approval - 3/16/2023   |

---

**RESOLUTION NO. 23-13****ATTACHMENT E-7****RESOLUTION FOR ASSISTANCE 2023  
UNDER THE FLORIDA INLAND NAVIGATION  
DISTRICT WATERWAYS ASSISTANCE PROGRAM**

WHEREAS, THE CITY OF PORT ORANGE is interested in carrying out the following described project for the enjoyment of the citizenry of City of Port Orange, Volusia County and the State of Florida:

|                |                                                  |
|----------------|--------------------------------------------------|
| Project Title: | Day Dock at Riverwalk Park Design and Permitting |
| Cost:          | \$183,000.00                                     |

Brief Description of Project: As part of the comprehensive Riverfront Park development, enhancement and public access, the City of Port Orange is seeking to build a Day (transient) Docking facility. The intent of this Day Dock facility is to provide recreational boaters access to the City's landward park amenities. The Day Docks are to be used as daytime only mooring for Volusia County residents and those who utilize the Intercoastal Waterway (ICW), which abuts the Day Dock facility location. Navigational access from the ICW navigation channel to the proposed Day Dock facility will be included. The current intent is to develop a phased approach that will ultimately allow the City to have at least up to 35-foot boat vessels. Design and permitting to include a dock parallel to the shoreline for mooring of up to ten (10) vessels with a potential to add more slips as demand increases. Design will include survey of significant area of the waterways to identify a navigational access channel to the Day Dock facility and will evaluate any dredging needs to meet a minimum depth of -5 ft Mean Low Water.

AND, Florida Inland Navigation District financial assistance is required for the program mentioned above.

NOW THEREFORE, be it resolved by the CITY OF PORT ORANGE that the project described above be authorized.

AND, be it further resolved that said City of Port Orange make application to the Florida Inland Navigation District in the amount of 50% of the actual cost of the project in behalf of said CITY OF PORT ORANGE.

[1]

AND, be it further resolved by the City of Port Orange that it certifies to the following:

1. That it will accept the terms and conditions set forth in FIND Rule 66B-2 F.A.C. and which will be a part of the Project Agreement for any assistance awarded under the attached proposal.
2. That it is in complete accord with the attached proposal and that it will carry out the Program in the manner described in the proposal and any plans and specifications attached thereto unless prior approval for any change has been received from the District.
3. That it has the ability and intention to finance its share of the cost of the project and that the project will be operated and maintained at the expense of said City of Port Orange for public use.
4. That it will not discriminate against any person on the basis of race, color or national origin in the use of any property or facility acquired or developed pursuant to this proposal, and shall comply with the terms and intent of the Title VI of the Civil Rights Act of 1964, P. L. 88-352 (1964) and design and construct all facilities to comply fully with statutes relating to accessibility by persons with disabilities as well as other federal, state and local laws, rules and requirements.
5. That it will maintain adequate financial records on the proposed project to substantiate claims for reimbursement.
6. That it will make available to FIND if requested, a post-audit of expenses incurred on the project prior to, or in conjunction with, request for the final 10% of the funding agreed to by FIND.

This is to certify that the foregoing is a true and correct copy of a resolution duly  
and legally adopted by the City of Port Orange City Council at a legal meeting held on this  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
MAYOR DONALD O. BURNETTE

ATTEST:

\_\_\_\_\_  
Robin L. Fenwick, MMC, City Clerk

Reviewed and Approved: \_\_\_\_\_  
Shannon K. Balmer, Assistant City Attorney



DOWN UNDER

2

1 RIVERWALK PARK  
PUBLIC DAY DOCK  
AND WATER TAXI  
STOP

2 AREAS WHERE  
DREDGING MAY BE  
REQUIRED TO  
ACCESS THE  
PUBLIC DAY DOCK  
FROM THE  
INTRACOASTAL  
WATERWAY

CAUSEWAY PARK

Dunlawton Ave.

Halifax River

1

RIVERWALK PARK

Ridgewood Ave.

Ridgewood Ave.



Eddin Multi-tenant  
Retail/Restaurant  
(under construction)

Eddin Medical  
(under construction)





- 1 RIVERWALK PARK  
PUBLIC DAY DOCK AND  
WATER TAXI STOP**  
(DESIGN 2023/2024;  
CONSTRUCTION 2024/2025)
- 2 RIVERWALK BOARDWALK**  
(DESIGN 2024/2025;  
CONSTRUCTION 2025/2026)
- 3 DOWN UNDER PUBLIC  
DAY DOCK AND WATER  
TAXI STOP**  
(DESIGN 2024/2025;  
CONSTRUCTION 2025/2026)

\* DREDGING MAY BE INCLUDED AS PART OF THESE PROJECTS TO ENSURE PUBLIC ACCESS





# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/21/2023

---

**SUBJECT:** (F12) Adoption of Port Orange City Council Local Rules of Procedure (Local Rules) for 2023

**DEPARTMENT:** City Clerk

**GOAL:** 6 - Organizational Excellence

---

**RECOMMENDED MOTION:** Move to approve the Local Rules of Procedure for 2023 as presented.

---

**SUMMARY:** As indicated in the Local Rules of Procedure, Council shall review the Local Rules and make any necessary changes in January of each year, or as soon as possible thereafter.

The Rules were provided to Council members for comment and the only proposed change is to the Public Participation - Agenda process as indicated in the update included in the agenda packet.

Attached is also a copy of the Port Orange City Council Local Rules of Procedure approved by City Council on January 18, 2022.

**PRESENTER:** Robin Fenwick

---

**ATTACHMENTS:**

|    |                                                   |                                                        |
|----|---------------------------------------------------|--------------------------------------------------------|
| 1. | 2022 Local Rules                                  | 2022 Local Rules.pdf                                   |
| 2. | 2023 POCC Rules of Procedure                      | 2023 POCC Rules of Procedure .docx                     |
| 3. | 2023 POCC Rules of Procedure Rev. 3-16-23 - CLEAN | 2023 POCC Rules of Procedure Rev. 3-16-23 - CLEAN.docx |

---

Robin Fenwick  
Matthew Jones  
Wayne Clark  
Tracee Cody

Created/Initiated - 3/2/2023  
Approved - 3/16/2023  
Approved - 3/16/2023  
Final Approval - 3/16/2023

---



# CITY OF PORT ORANGE

CITY CLERK'S OFFICE  
1000 CITY CENTER CIRCLE  
PORT ORANGE, FLORIDA 32129  
TELEPHONE (386) 506-5563

## **PORT ORANGE CITY COUNCIL** **LOCAL RULES OF PROCEDURE**

### **I. GENERAL PARLIAMENTARY RULES.**

The general parliamentary procedure to be followed by the City Council of the City of Port Orange, Florida, except as otherwise modified by the City Council or as modified or amended herein, shall be in accordance with the most current edition of Robert's Rules of Order, Newly Revised.

### **II. PRESIDING OFFICER AND DUTIES.**

- A. The Mayor, if present, shall preside at all meetings of the Council. In the absence of the Mayor, the Vice Mayor shall preside.
- B. The meetings of the Council shall be called to order, recessed and adjourned by the presiding officer.
- C. The presiding officer shall preserve order and enforce the rules of decorum and conduct set forth herein.
- D. The presiding officer shall determine all points of order, subject to the right of any Councilmember to appeal to the Council. If any appeal is taken, the question shall be, "Shall the decision of the presiding officer be sustained?" A majority of the Council sitting and eligible to vote is required to reverse the ruling of the presiding officer.
- E. The presiding officer may call another Councilmember to temporarily chair the meeting to make a motion, or to cover a temporary absence, such substitution is not to continue beyond adjournment.

### **III. LOCAL RULES.**

- A. The following Local Rules of Procedure ("Local Rules") shall be applicable to the organization and conduct of business, as well as preparation and publication of agendas, of the City Council of the City of Port Orange, Florida. To the extent these Local Rules shall modify or conflict with the standard "Robert's Rules of Order" as adopted above, these Local Rules shall prevail to the extent of their conflict or inconsistency with "Robert's Rules of Order". The approval of these Local Rules shall take place at the first meeting held in January of each year, or as soon as possible thereafter.

- 1. Regular meetings of the City Council shall typically be held on the first and third Tuesdays of each month, with exceptions due to holidays and Port Orange municipal election dates, at 6:30 p.m. These meeting dates and times are subject to change as determined necessary by the City Council or to comply with the City's Charter. There shall be no



regular City Council meeting on the date of a Port Orange municipal election. A meeting that would otherwise have been scheduled for such date shall be held on the Wednesday immediately following the election at 6:30 p.m.

2. Workshops of the City Council shall be held as needed on the fourth Tuesday of each month at such time and place as set by Council or the City Manager. Every effort will be made to avoid the scheduling of workshops in the months of November and December. Workshops may also be scheduled at other times as determined necessary by the City Council or the City Manager.
3. All regular City Council meetings shall be held in the City Council Chambers at City Hall unless otherwise designated by the City Council. All City Council workshops will typically be held in the Second Floor Conference Room, Lakeside Community Center, the Adult Activity Center, or the Council Chambers at City Hall, as determined by the City Manager.
4. There may also be special meetings or workshops at such other times designated in advance by the City Council for the purposes of holding joint meetings with City boards, commissions, etc., to include receiving annual reports and presentations from the City's boards, committees, agencies and authorities, or for such other purposes as may be deemed necessary or desirable by the City Council.
5. Special meetings shall be called at the request of the Mayor or any two Councilmembers in accordance with the provisions of the City Charter and the Code of Ordinances.
6. Ex Parte Communication and Quasi-Judicial Proceedings shall be governed by City Council Resolution No. 00-65. At a minimum, all parties to a Quasi-Judicial Proceeding shall be entitled to the following:
  - a. An opportunity to call and examine witnesses, who shall be sworn;
  - b. An opportunity to introduce evidence;
  - c. An opportunity to cross examine witnesses; and
  - d. An opportunity to rebut evidence.
7. To the extent compatible with the conduct of business, all workshops shall be held on an informal basis. The applicability of the City's general rules shall not be strictly applied. Presentations made at workshop meetings shall be limited to twenty (20) minutes, unless the Council, by consensus, agrees to extend the time.
8. The City Manager shall be responsible for the organization and placement of items on the City Council Agenda; however, the Agenda and Agenda packets shall be prepared by the City Clerk. If the Council or any of its members wish to place an item on an agenda, any such request or inquiry shall be directed to the City Manager's office for disposition as opposed to any Councilmember contacting any City officer or employee who is subject to the direction and supervision of the City Manager.

9. With regard to the agenda for regular City Council meetings, the following shall apply:
  - a. To the extent possible, the City Administration shall group all matters by subject area and shall place as many items as possible on the consent portion of the agenda. Those items of a controversial nature or those that need an explanation will not be placed on the Consent Agenda.
  - b. The Consent Agenda shall be considered by Council only after the public has had an opportunity to comment on the items included. Should Council need further discussion to occur on a Consent Agenda Item, he/she may motion for the item to be pulled and discussed separately. Those items pulled will be discussed immediately following the Consent Agenda approval.
  - c. The agenda format shall generally be as follows: Call to Order; Invocation; Pledge of Allegiance; Roll Call; Recognition and Proclamations; Consent Agenda (to include Public Comments on Consent Agenda Items and Agenda Approval); Public Participation (Agenda); Public Participation (Non-Agenda); Council Comments; Special Reports; Board Appointments, Interviews, and Reports; Tabled Items; Public Hearings (to include second readings of ordinances); Regular Agenda, (to include first readings of ordinances); Additional Items from the City Attorney and the City Manager; and Council Committee reports. The agenda format is subject to change at the discretion of the City Manager or upon consensus of Council.
  - d. Any items received during the public participation (non-agenda) portion of the agenda may, at the discretion of the Council, be discussed by the City Council at the time of such presentation, may be directed to the City Manager for action or resolution by the Council or may be added to a subsequent meeting or workshop agenda if a member of the City Council so specifically requests.
  - e. Votes taken on ordinances and resolutions shall be by roll call and shall be recorded by the City Clerk. All roll call votes shall be in the order of District with District 1 voting first, District 2 voting second, and so on, with the Vice Mayor always voting fourth and the Mayor voting last.
  - f. Once a motion has been made, seconded, and voted upon, it is final, except that the Council may reconsider that matter at the same meeting at which the motion was voted upon or the immediate subsequent meeting. If reconsideration is requested for an immediate subsequent meeting, the Councilmember requesting reconsideration shall notify the City Clerk in advance of the meeting at which the reconsideration will take place and provide the reasons for requesting reconsideration to allow the City Clerk to include the request as part of the meeting agenda and properly notice the item to be reconsidered. The City Clerk shall consult with the

City Attorney's Office to determine the sufficiency of notice to interested parties. To reconsider a final vote of the City Council, a motion to reconsider shall be made by a member of the Council that voted on the prevailing side. The City Council shall establish for the public record the reasons that a reconsideration of the final vote was warranted.

- g. A motion made by a Councilmember to approve an item on the agenda or the consent agenda by reference to the agenda item number and/or the title of the agenda item shall automatically incorporate staff's recommended motion (as set forth in the agenda packet) unless a clear indication to the contrary is made on the record.
10. The City Council of the City of Port Orange is committed to maintaining civility in public and political discourse and encourages the public to do the same. To promote civil discourse and avoid a confrontational atmosphere, all comments by members of the Council, advisory board members, and/or the public should:
- a. Respect the right of all citizens in our community to hold different opinions;
  - b. Avoid rhetoric intended to humiliate or question the wisdom of those whose opinions are different from ours;
  - c. Strive to understand differing perspectives;
  - d. Be truthful, not accusatory, and avoid distortion; and
  - e. Avoid violence, prejudice, and incivility towards citizens, employees, and officials of the City of Port Orange.
11. Cell phone ringers shall be disabled while a meeting or workshop is in progress.

#### **IV. PUBLIC PARTICIPATION.**

- A. The City of Port Orange recognizes the statutorily created right of the public to be heard on propositions in front of City Council as set forth in Section 286.0114, Florida Statutes, and is committed to democratic, participatory local government. The following rules, guidelines, and procedures are intended to promote orderly conduct and defined methods for participation. The presiding officer shall have the authority to enforce these rules and may request the removal of any individual who has been warned of and persists with prohibited conduct.

##### **1. General Rule**

- a. Members of the public shall be given a reasonable opportunity to be heard on a proposition before City Council, subject to the rules, guidelines, and procedures set forth herein. The opportunity to be heard need not occur at the same meeting at which City Council takes official action on the proposition if the opportunity occurs at a meeting

that is during the decision-making process and is within reasonable proximity in time before the meeting at which City Council takes the official action.

- b. Public participation is not required under the following circumstances:
  - i. An official act must be taken to deal with an emergency situation affecting the public health, welfare, or safety, and public participation would cause an unreasonable delay in the ability of the City Council to act;
  - ii. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
  - iii. A meeting that is exempt from s. 286.011, Florida Statutes; or
  - iv. A meeting during which the board or commission is acting in a quasi-judicial capacity, unless otherwise provided by law.

## 2. Meeting Decorum and Conduct

- a. Individuals may only make comments from the podium, or such other reasonable accommodation, after being recognized by the presiding officer.
- b. Prior to commenting, individuals are required to clearly state their name and city of residence for the record in order to preserve an accurate public record reflected in the meeting minutes for future reference.
- c. All comments shall be directed to the presiding officer and shall not contain profane, aggressive or threatening language, or personal verbal attacks.
- d. Repetitive, redundant, or immaterial presentations or requests may be limited, and shall not resume unless authorized by a majority vote of the City Council.
- e. Comments shall be limited to the allotted times set forth herein, but additional comments may be submitted in writing to supplement and fully address any issue. The presiding officer shall have the discretion to provide additional time for a representative who can produce supporting documentation or evidence that he or she is authorized to speak on behalf of a group or faction comprised of five or more members of the public.
- f. Individuals attending a City Council meeting may choose to either hold a sign or place a sign along the rear wall of Council Chambers. Signs shall not be placed or held in any manner which obstructs the view of other audience members or obstructs access to or from Council Chambers. Signs shall not be waived or lighted in any manner that

causes distraction to the Councilmembers or members of the audience during a City Council meeting or workshop. Signs shall not be affixed to the walls or other surfaces within the meeting room.

### 3. Procedures and Guidelines for Public Participation

#### a. Public Participation – Non-Agenda

- i. The City Council allocates 20 minutes at each regularly scheduled City Council Meeting for members of the public who wish to appear before the City Council to make a request, voice a complaint or concern, express an opinion, or give recognition. Council may extend the allocated time by the majority vote of the Council.
- ii. Members of the public who wish to be heard shall complete a public participation form and provide the completed form to the City Clerk prior to the beginning of the meeting. Public participation forms shall be made available outside Council Chambers one hour prior to the meeting and in the City Clerk's Office during regular business hours. The City Clerk shall present all completed forms to the presiding officer prior to the beginning of the meeting.
- iii. The presiding officer shall divide the time allocated equally between all who have signed up to speak. Each individual shall be afforded no more than three minutes to speak unless such time is extended by a majority vote of City Council.
- iv. If an item brought forward under Public Participation – Non-Agenda requires a longer presentation by the presenter or will require staff research of materials, the item may be scheduled for a future City Council Meeting under Public Participation – Agenda if a member of City Council so specifically requests.

#### b. Public Participation – Agenda

- i. The City Council shall reserve a section of the agenda dedicated to hearing Public Participation items requiring more than three minutes to fully address.
- ii. Members of the public who wish to have their discussion item placed on the agenda shall file the request with the City Clerk at least three weeks in advance of the Council Meeting at which the item is to be heard. The request shall include the nature of the discussion and any supporting information to be considered.
- iii. The City Clerk shall forward a copy of the request and supporting information to the appropriate City Department(s) so that research may be conducted, and information may be provided by staff as part of the agenda item to assist City Council in making a decision.

iv. Requests shall be forwarded to the appropriate City Advisory Board or Commission for recommendations to the City Council prior to placement on an agenda, when applicable.

v. Public Participation Agenda Items shall be considered in the following format:

1. Presentation by requestor
2. Questions of the requestor by City Council
3. Presentation by City staff, if necessary
4. Questions of City staff by City Council
5. Public comments
6. Take action, if necessary

vi. The requestor and City staff shall each be given 15 minutes to address the agenda item, unless extended by the majority vote of Council. Presentations shall be clear, concise, and to the point. Presentation materials shall be provided to the City Clerk at least 48 hours prior to the meeting date. The City Clerk will upload the presentation materials to the computer in Council Chambers. Members of the public who wish to participate after the presentation by voicing support, opposition or neutrality to the request shall be afforded no more than three minutes each to speak.

c. Public Hearings, Regular Agenda, and Consent Agenda Items

i. Members of the public shall be given an opportunity to be heard on public hearing items and regular agenda items once the applicant has completed his or her presentation, the City Staff has completed its presentation on the issue, and interested parties, if any, have completed their presentation; and before a decision has been made by City Council.

ii. Members of the public who wish to be heard on a particular item listed on the agenda may choose to complete a public participation form and turn-in the completed form to the City Clerk in advance of the meeting or raise a hand and wait to be called-on when the presiding officer opens the floor to comments from the public.

iii. Applicant(s) and City Staff shall have as much time as necessary to make their presentation before the City Council. Each member of the public shall have no more than three minutes to be heard once recognized by the presiding officer.

d. Submission of Petitions

i. Petitions may be presented to Council during public participation at a meeting or by mailing or hand-delivering to the City Clerk.

- ii. If the petition is presented at a meeting, the presenter shall present the petition to the presiding officer through the City Clerk along with a brief overview of the reason for the petition. Such presentation shall be limited to three minutes.
- iii. If the petition is sent by mail or hand-delivered to the City Clerk, the petition shall provide the reason for the petition. Upon receipt of the petition, the City Clerk shall place the item on the agenda with a copy of the petition for the next available meeting for discussion.

## **V. OPENING INVOCATION**

- A. It shall be the policy of the City Council that the procedures stated in this rule concerning opening invocation shall govern all official meetings of the City Council and that the members of the City Council and City staff shall adhere to these rules. These policies and procedures are not intended, shall not be implemented, and shall not be construed in any way to affiliate the City Council or the City with, nor express a preference for or against any faith, belief, opinion, religion, or denomination. Rather, these policies and procedures are intended to acknowledge and express the City Council respect for the diversity of religious denominations and faiths represented and practiced among the citizens of the City.
  1. After the Call to Order of all official meetings of the City Council an Opening Invocation as described herein shall occur. The opening invocation will occur and be completed during the opening, ceremonial portion of the City Council meeting and shall in no event occur, or be construed to occur, during the policymaking or legislative portions of the City Council meeting. If the selected speaker is absent or a selection cannot be made for any reason, the invocation will consist of a brief moment of silence.
  2. The opening invocation will be performed by a local volunteer selected in accordance with these rules. The local volunteer selected for leading the opening invocation shall be selected from a wide pool of local clergy as specified below, and he/she shall in no event receive compensation from the City for his/her participation or services. To ensure that such person is selected from among a wide pool of local clergy, on a rotating basis, the invocation speaker shall be selected according to the following procedure:
    - a. The City Clerk or his/her designee shall compile and maintain a database of the religious congregations with an established presence within the jurisdictional limits of the City of Port Orange and Volusia County.
    - b. The Congregation List shall be compiled by referencing the listings for "churches," "congregations," or other similar religious assemblies located within the jurisdictional limits of the City and Volusia County in the annual Yellow Pages telephone book(s) published for the City and Volusia County, research from the Internet, and/or consultation



with local chambers of commerce. All religious congregations with an established presence within the jurisdictional limits of the City and Volusia County are eligible to be, and shall be, included in the Congregation List. Any such congregation, entity, organization, or individual within the jurisdictional limits of the City and Volusia County not otherwise identified for participating may request inclusion on the Congregation List by written communication directed to the City Clerk that references the opening invocation. This policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious congregation within the jurisdictional limits of the City and Volusia County. The Congregation List is compiled and used for purposes of logistics, efficiency, and equal opportunity for all religious leaders within the jurisdictional limits of the City and Volusia County to choose whether to respond to the City Council's Invitation and participate. The City Clerk or his/her designee may not inquire into the faith, denomination, or other religious belief of the congregation before adding it to the Congregation List.

- c. The Congregation List shall also include the name and contact information of any religious congregation located outside the City and Volusia County, if such religious congregation is attended by a resident or residents of the City or Volusia County, and such resident requests the inclusion of said religious congregation by specific written communication to the City Clerk.
  - d. The Congregation List shall also include the name and contact information of any chaplain who may serve one or more of the fire departments or law enforcement agencies of the City and Volusia County.
  - e. The Congregations List shall be updated, by reasonable efforts of the City Clerk or his/her designee, on or about the month of July of each calendar year.
3. Within thirty (30) days of the effective date of this policy, and on or about May 1 of each calendar year thereafter, the City Clerk or his/her designee shall mail or email an invitation addressed to the religious leader, chaplain, minister, rabbi or similar, or other contact person of each congregation listed on the Congregations List. The invitation will comport with substantially the following form:

*Dear Sir or Madam:*

*The City of Port Orange City Council makes it a policy to invite members of the clergy and other religious leaders having an established presence within the jurisdictional limits of the City of Port Orange and Volusia County to voluntarily offer an invocation before the beginning of its meetings for the benefit and blessing of the City Council. As the leader of one of the religious congregations with an established presence within the jurisdictional limits of the City and Volusia County, you are invited to offer this important service at an upcoming meeting of*

*the City Council.*

*If you are willing to assist the City Council in this regard, please send a written reply at your earliest convenience to the City Clerk at the address included on this letterhead or via email at [cityclerk@port-orange.org](mailto:cityclerk@port-orange.org). Invocation speakers are scheduled on a first-come, first-serve basis. The dates of the City Council's scheduled meetings for the upcoming year are included below. If you have a preference among the date, please state that request in your written reply.*

*This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. The invocation should be brief and succinct. To maintain a spirit of respect and ecumenism, the City Council respectfully requests that the invocation opportunity not be exploited as an effort to convert others to the particular faith of the invocation speaker, nor to disparage any faith or belief different than that of the invocation speaker or otherwise threaten damnation or denigrate nonbelievers.*

*On behalf of the City Council of the City of Port Orange, I thank you in advance for considering this invitation.*

*Regards,  
City Clerk or his/her designee*

4. As the invitation letter shall state, the respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver a brief and succinct invocation. All reasonable efforts shall be made to ensure that a variety of invocation speakers are scheduled for City Council meetings. Notwithstanding the preceding, no invocation speaker shall be scheduled to offer an invocation at consecutive meetings of the City Council, or at more than three (3) City Council meetings in any calendar year.
5. No member of the City Council, City employee or staff shall engage in any prior inquiry, review, or involvement in, the content of any invocation to be offered by an invocation speaker.
6. No member of the City Council, City employee or staff, or any other person in attendance at the meeting shall be required to participate in any opening invocation that is offered. An opportunity to exit the City Council Chambers and return upon completion of the opening invocation is afforded to those who do not wish to participate or witness the opening invocation. Persons in attendance at the City Council meeting are invited to stand during the opening invocation and Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. Such invitation constitutes a general invitation that a person in attendance may stand if he/she wishes to do so for such observances.

7. The following statement shall be placed at the bottom of City Council meeting agendas:

*Any invocation that is offered before the official start of the City Council meeting shall be the voluntary offering of a private person, to and for the benefit of the City Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council or the city staff, and the City is not allowed by law to endorse the religious beliefs or views of this, or any other speaker. Persons in attendance at the City Council meeting are invited to stand during the opening invocation and Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered. A person may exit the City Council Chambers and return upon completion of the opening invocation if a person does not wish to participate in or witness the opening invocation.*

## **VI. CITY BOARD, COMMITTEE, COUNCIL AND AGENDA APPOINTMENTS.**

- A. All appointments to city boards, commissions, and committees whose members are not subject to appointment by other entities, and in accordance with any applicable restrictions by State Statute, shall be made in accordance with the following procedures:
1. All vacancies subject to appointment to such city boards, commissions, and committees shall be made on a nomination basis by each of the members of the City Council. This nomination shall be construed to be a Motion to Appoint. When more than one nominee has been identified for a single vacancy, voting may be conducted by written ballot which shall include the name of the Councilmember and the name of the nominee. Written ballots shall be read aloud into the record.
  2. Roster lists and volunteer applications for City boards, commissions, and committees shall be established and maintained by the City Clerk's office.
  3. Appointments for vacancies occurring on a board wherein the particular member has, for whatever reason, not fulfilled their entire term of membership on that particular board, commission, or committee, shall be to complete the unexpired term only, unless the unexpired term is for a period of time less than six (6) months. In that event, the appointed member shall then be allowed to serve the following full regular term without reappointment.

## **VII. DOCUMENTS**

All documents, photographs or other materials submitted to the City Council

for their consideration shall be maintained by the City Clerk in accordance with the public records law. Each presenter submitting such materials shall provide copies to each Councilmember, as well as the City Manager, City Attorney, and City Clerk.

### **VIII. CEREMONIAL GUIDELINES**

*Certificates of Achievement* are ceremonial documents that recognize an individual's service or extraordinary achievement. They do not have any legislative value.

Prepared on appropriate paper that includes a watermark of the City Seal in the background, along with the *who* and *what* (the achievement) as supplied by the requestor and will be signed by the Mayor.

*Proclamations* are official City related announcements and/or public declarations issued by the Mayor. They are ceremonial in nature and do not have any legislative value. Below are examples of proclamations that have previously been issued upon request annually; however, some may not be requested every year others may be requested through this process, as well.

- Teacher of the Year – Multiple proclamations – January
- Human Trafficking – January
- Freemanville Day – February
- Sunshine Week – March
- Vietnam War Veterans Day – March
- Government Finance Professionals Week – March
- Child Abuse Prevention – April
- Arbor Day – April
- Water Conservation Month – April
- Municipal Clerk's Week - May
- Memorial Day – May
- American Cancer Society's Relay for Life - May
- Women's Lung Health Week – May
- Parks & Recreation Month - July
- Constitution Week – September
- Childhood Cancer Month – September
- Florida Government Week – October
- Domestic Abuse Month – October
- Breast Cancer Awareness Month – October
- Veterans Day – November
- Small Business Saturday – November
- Purple Heart – November

Proclamations are prepared on 8 ½ x 11 paper, be enclosed in a certificate holder, and include the following:

- *Whereas* clauses providing information that basically describe the five W's (who, what, when, where, and why)
- *A Now, Therefore Be It Resolved* clause proclaiming a specific event

- An execution date representing the date the Mayor signed the document or the date of the event
- Signature of the Mayor
- City Seal

*Keys to the City* are an honor bestowed by the City upon distinguished persons and honored guests of the City of Port Orange. It symbolizes outstanding civic contributions of the recipient and should be given out only in extraordinary circumstances.

The Key to the City is the City's most prestigious award and will only be used to recognize exceptional achievement or to bestow honor upon distinguished persons and honored guests of the City of Port Orange.

These ceremonial declarations are issued for the following reasons:

1. Recognition of action or service above and beyond the call of duty,
2. Recognition of extraordinary achievement,
3. Supporting actions that improve the quality of life of the Port Orange community, or
4. To raise public awareness of issues that directly affect the Port Orange community.

### **Request Process**

An application form, maintained by the City Clerk's Office, for a Proclamation or Certificate of Achievement should be submitted to the City Clerk's Office at least ten (10) business days prior to the event, along with a sample proclamation. Individuals/organizations are encouraged to submit their request as early as possible. Applications received after the deadline will be prepared based upon staff availability. Requestors will be advised when issuance cannot occur by the event date.

The City Clerk, or his/her designee, will initially review all applications and forward to the City Manager for final approval. The City Manager can seek concurrence from the Mayor if there are concerns.

### **Receipt of Final Document**

Individuals/organizations have several options for receiving the finalized document:

1. Proclamation/Certificate can be picked up from the City Clerk's Office/City Hall.
2. Presentation can occur prior to the start of any City Council Meeting/Workshop.
3. Presentation can occur at a regularly scheduled Council Meeting which may require additional information for agenda purposes.
4. Presentation can occur at an event sponsored by the individual/organization subject to availability of the Mayor or a City Councilmember.

Coordination will be handled by the City Clerk's Office.

### **Media Coverage**

The individual/organization requesting a proclamation or Certificate of Achievement will arrange for any and all media coverage. If media coverage is expected, the

individual/organization shall notify the City's Public Information Officer in advance of the meeting.

**Contact Information**

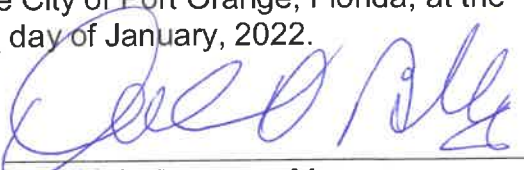
Mailing Address: City Clerk's Office  
City of Port Orange  
1000 City Center Circle  
Port Orange, FL 32129

Telephone: 386-506-5563  
Email: [cityclerk@port-orange.org](mailto:cityclerk@port-orange.org)

**IX. CITY MANAGER/CITY ATTORNEY ANNUAL REVIEW.**

The City Council shall annually conduct a performance evaluation and salary review of the City Manager and City Attorney in accordance with their respective employment agreements.

Approved and adopted by the City Council of the City of Port Orange, Florida, at the Regular City Council Meeting held on the 18 day of January, 2022.

  
Donald O. Burnette, Mayor

ATTEST:

  
Robin L. Fenwick, MMC, City Clerk



**PORT ORANGE CITY COUNCIL**  
**LOCAL RULES OF PROCEDURE**

**I. GENERAL PARLIAMENTARY RULES.**

The general parliamentary procedure to be followed by the City Council of the City of Port Orange, Florida, except as otherwise modified by the City Council or as modified or amended herein, shall be in accordance with the most current edition of Robert's Rules of Order, Newly Revised.

**II. PRESIDING OFFICER AND DUTIES.**

- A. The Mayor, if present, shall preside at all meetings of the Council. In the absence of the Mayor, the Vice Mayor shall preside.
- B. The meetings of the Council shall be called to order, recessed and adjourned by the presiding officer.
- C. The presiding officer shall preserve order and enforce the rules of decorum and conduct set forth herein.
- D. The presiding officer shall determine all points of order, subject to the right of any Councilmember to appeal to the Council. If any appeal is taken, the question shall be, "Shall the decision of the presiding officer be sustained?" A majority of the Council sitting and eligible to vote is required to reverse the ruling of the presiding officer.
- E. The presiding officer may call another Councilmember to temporarily chair the meeting to make a motion, or to cover a temporary absence, such substitution is not to continue beyond adjournment.

**III. LOCAL RULES.**

- A. The following Local Rules of Procedure ("Local Rules") shall be applicable to the organization and conduct of business, as well as preparation and publication of agendas, of the City Council of the City of Port Orange, Florida. To the extent these Local Rules shall modify or conflict with the standard "Robert's Rules of Order" as adopted above, these Local Rules shall prevail to the extent of their conflict or inconsistency with "Robert's Rules of Order". The approval of these Local Rules shall take place at the first meeting held in January of each year, or as soon as possible thereafter.

- 1. Regular meetings of the City Council shall typically be held on the first and third Tuesdays of each month, with exceptions due to holidays and Port Orange municipal election dates, at 6:30 p.m. These meeting dates and times are subject to change as determined necessary by the City Council or to comply with the City's Charter. There shall be no regular City Council meeting on the date of a Port Orange municipal election.



A meeting that would otherwise have been scheduled for such date shall be held on the Wednesday immediately following the election at 6:30 p.m.

2. Workshops of the City Council shall be held as needed on the fourth Tuesday of each month at such time and place as set by Council or the City Manager. Every effort will be made to avoid the scheduling of workshops in the months of November and December. Workshops may also be scheduled at other times as determined necessary by the City Council or the City Manager.
3. All regular City Council meetings shall be held in the City Council Chambers at City Hall unless otherwise designated by the City Council. All City Council workshops will typically be held in the Second Floor Conference Room, Lakeside Community Center, the Adult Activity Center, or the Council Chambers at City Hall, as determined by the City Manager.
4. There may also be special meetings or workshops at such other times designated in advance by the City Council for the purposes of holding joint meetings with City boards, commissions, etc., to include receiving annual reports and presentations from the City's boards, committees, agencies and authorities, or for such other purposes as may be deemed necessary or desirable by the City Council.
5. Special meetings shall be called at the request of the Mayor or any two Councilmembers in accordance with the provisions of the City Charter and the Code of Ordinances.
6. Ex Parte Communication and Quasi-Judicial Proceedings shall be governed by City Council Resolution No. 00-65. At a minimum, all parties to a Quasi-Judicial Proceeding shall be entitled to the following:
  - a. An opportunity to call and examine witnesses, who shall be sworn;
  - b. An opportunity to introduce evidence;
  - c. An opportunity to cross examine witnesses; and
  - d. An opportunity to rebut evidence.
7. To the extent compatible with the conduct of business, all workshops shall be held on an informal basis. The applicability of the City's general rules shall not be strictly applied. Presentations made at workshop meetings shall be limited to twenty (20) minutes, unless the Council, by consensus, agrees to extend the time.
8. The City Manager shall be responsible for the organization and placement of items on the City Council Agenda; however, the Agenda and Agenda packets shall be prepared by the City Clerk. If the Council or any of its members wish to place an item on an agenda, any such request or inquiry shall be directed to the City Manager's office for disposition as opposed to any Councilmember contacting any City officer or employee who is subject to the direction and supervision of the City Manager.

9. With regard to the agenda for regular City Council meetings, the following shall apply:
  - a. To the extent possible, the City Administration shall group all matters by subject area and shall place as many items as possible on the consent portion of the agenda. Those items of a controversial nature or those that need an explanation will not be placed on the Consent Agenda.
  - b. The Consent Agenda shall be considered by Council only after the public has had an opportunity to comment on the items included. Should Council need further discussion to occur on a Consent Agenda Item, he/she may motion for the item to be pulled and discussed separately. Those items pulled will be discussed immediately following the Consent Agenda approval.
  - c. The agenda format shall generally be as follows: Call to Order; Invocation; Pledge of Allegiance; Roll Call; Recognition and Proclamations; Consent Agenda (to include Public Comments on Consent Agenda Items and Agenda Approval); Public Participation (Agenda); Public Participation (Non-Agenda); Council Comments; Special Reports; Board Appointments, Interviews, and Reports; Tabled Items; Public Hearings (to include second readings of ordinances); Regular Agenda, (to include first readings of ordinances); Additional Items from the City Attorney and the City Manager; and Council Committee reports. The agenda format is subject to change at the discretion of the City Manager or upon consensus of Council.
  - d. Any items received during the public participation (non-agenda) portion of the agenda may, at the discretion of the Council, be discussed by the City Council at the time of such presentation, may be directed to the City Manager for action or resolution by the Council or may be added to a subsequent meeting or workshop agenda if a member of the City Council so specifically requests.
  - e. Votes taken on ordinances and resolutions shall be by roll call and shall be recorded by the City Clerk. All roll call votes shall be in the order of District with District 1 voting first, District 2 voting second, and so on, with the Vice Mayor always voting fourth and the Mayor voting last.
  - f. Once a motion has been made, seconded, and voted upon, it is final, except that the Council may reconsider that matter at the same meeting at which the motion was voted upon or the immediate subsequent meeting. If reconsideration is requested for an immediate subsequent meeting, the Councilmember requesting reconsideration shall notify the City Clerk in advance of the meeting at which the reconsideration will take place and provide the reasons for requesting reconsideration to allow the City Clerk to include the request as part of the meeting agenda and properly notice the item to be reconsidered. The City Clerk shall consult with the City Attorney's Office to determine the sufficiency of notice to

interested parties. To reconsider a final vote of the City Council, a motion to reconsider shall be made by a member of the Council that voted on the prevailing side. The City Council shall establish for the public record the reasons that a reconsideration of the final vote was warranted.

- g. A motion made by a Councilmember to approve an item on the agenda or the consent agenda by reference to the agenda item number and/or the title of the agenda item shall automatically incorporate staff's recommended motion (as set forth in the agenda packet) unless a clear indication to the contrary is made on the record.

10. The City Council of the City of Port Orange is committed to maintaining civility in public and political discourse and encourages the public to do the same. To promote civil discourse and avoid a confrontational atmosphere, all comments by members of the Council, advisory board members, and/or the public should:

- a. Respect the right of all citizens in our community to hold different opinions;
- b. Avoid rhetoric intended to humiliate or question the wisdom of those whose opinions are different from ours;
- c. Strive to understand differing perspectives;
- d. Be truthful, not accusatory, and avoid distortion; and
- e. Avoid violence, prejudice, and incivility towards citizens, employees, and officials of the City of Port Orange.

11. Cell phone ringers shall be disabled while a meeting or workshop is in progress.

#### **IV. PUBLIC PARTICIPATION.**

A. The City of Port Orange recognizes the statutorily created right of the public to be heard on propositions in front of City Council as set forth in Section 286.0114, Florida Statutes, and is committed to democratic, participatory local government. The following rules, guidelines, and procedures are intended to promote orderly conduct and defined methods for participation. The presiding officer shall have the authority to enforce these rules and may request the removal of any individual who has been warned of and persists with prohibited conduct.

##### **1. General Rule**

- a. Members of the public shall be given a reasonable opportunity to be heard on a proposition before City Council, subject to the rules, guidelines, and procedures set forth herein. The opportunity to be heard need not occur at the same meeting at which City Council takes official action on the proposition if the opportunity occurs at a meeting that is during the decision-making process and is within reasonable

proximity in time before the meeting at which City Council takes the official action.

- b. Public participation is not required under the following circumstances:
  - i. An official act must be taken to deal with an emergency situation affecting the public health, welfare, or safety, and public participation would cause an unreasonable delay in the ability of the City Council to act;
  - ii. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
  - iii. A meeting that is exempt from s. 286.011, Florida Statutes; or
  - iv. A meeting during which the board or commission is acting in a quasi-judicial capacity, unless otherwise provided by law.

## 2. Meeting Decorum and Conduct

- a. Individuals may only make comments from the podium, or such other reasonable accommodation, after being recognized by the presiding officer.
- b. Prior to commenting, individuals are required to clearly state their name and city of residence for the record in order to preserve an accurate public record reflected in the meeting minutes for future reference.
- c. All comments shall be directed to the presiding officer and shall not contain profane, aggressive or threatening language, or personal verbal attacks.
- d. Repetitive, redundant, or immaterial presentations or requests may be limited, and shall not resume unless authorized by a majority vote of the City Council.
- e. Comments shall be limited to the allotted times set forth herein, but additional comments may be submitted in writing to supplement and fully address any issue. The presiding officer shall have the discretion to provide additional time for a representative who can produce supporting documentation or evidence that he or she is authorized to speak on behalf of a group or faction comprised of five or more members of the public.
- f. Individuals attending a City Council meeting may choose to either hold a sign or place a sign along the rear wall of Council Chambers. Signs shall not be placed or held in any manner which obstructs the view of other audience members or obstructs access to or from Council Chambers. Signs shall not be waived or lighted in any manner that causes distraction to the Councilmembers or members of the

audience during a City Council meeting or workshop. Signs shall not be affixed to the walls or other surfaces within the meeting room.

### 3. Procedures and Guidelines for Public Participation

#### a. Public Participation – Non-Agenda

- i. The City Council allocates 20 minutes at each regularly scheduled City Council Meeting for members of the public who wish to appear before the City Council to make a request, voice a complaint or concern, express an opinion, or give recognition. Council may extend the allocated time by the majority vote of the Council.
- ii. Members of the public who wish to be heard shall complete a public participation form and provide the completed form to the City Clerk prior to the beginning of the meeting. Public participation forms shall be made available outside Council Chambers one hour prior to the meeting and in the City Clerk's Office during regular business hours. The City Clerk shall present all completed forms to the presiding officer prior to the beginning of the meeting.
- iii. The presiding officer shall divide the time allocated equally between all who have signed up to speak. Each individual shall be afforded no more than three minutes to speak unless such time is extended by a majority vote of City Council.
- iv. If an item brought forward under Public Participation – Non-Agenda requires a longer presentation by the presenter or will require staff research of materials, the item may be scheduled for a future City Council Meeting under Public Participation – Agenda if a member of City Council so specifically requests.

#### b. Public Participation – Agenda

- i. The City Council shall reserve a section of the agenda dedicated to hearing Public Participation items requiring more than three minutes to fully address.
- ii. Members of the public who wish to have their discussion item placed on the agenda shall file the request with the City Clerk at least three weeks in advance of the Council Meeting at which the item is to be heard. The request shall include the nature of the discussion and any supporting information to be considered.
- iii. The City Clerk shall forward a copy of the request and supporting information to the appropriate City Department(s) so that research may be conducted, and information may be provided by staff as part of the agenda item to assist City Council in making a decision.

- iv. Requests shall be forwarded to the appropriate City Advisory Board or Commission for recommendations to the City Council prior to placement on an agenda, when applicable.
  - v. Public Participation Agenda Items shall be considered in the following format:
    - 1. Presentation by requestor
    - 2. Questions of the requestor by City Council
    - 3. Presentation by City staff, if necessary
    - 4. Questions of City staff by City Council
    - 5. Public comments, if any action is to be taken by City Council
    - 6. Take action or provide direction, if necessary
  - vi. The requestor and City staff shall each be given 10 15 minutes to address the agenda item, unless extended by the majority vote of Council. Presentations shall be clear, concise, and to the point. Presentation materials shall be provided to the City Clerk at least 48 hours prior to the meeting date. The City Clerk will upload the presentation materials to the computer in Council Chambers. ~~Members of the public who wish to participate after the presentation by voicing support, opposition or neutrality to the request shall be afforded no more than three minutes each to speak. If action is to be taken by City Council, the public shall be afforded no more than three minutes each to speak.~~
- c. Public Hearings, Regular Agenda, and Consent Agenda Items
- i. Members of the public shall be given an opportunity to be heard on public hearing items and regular agenda items once the applicant has completed his or her presentation, the City Staff has completed its presentation on the issue, and interested parties, if any, have completed their presentation; and before a decision has been made by City Council.
  - ii. Members of the public who wish to be heard on a particular item listed on the agenda may choose to complete a public participation form and turn-in the completed form to the City Clerk in advance of the meeting or raise a hand and wait to be called-on when the presiding officer opens the floor to comments from the public.
  - iii. Applicant(s) and City Staff shall have as much time as necessary to make their presentation before the City Council. Each member of the public shall have no more than three minutes to be heard once recognized by the presiding officer.
- d. Submission of Petitions
- i. Petitions may be presented to Council during public participation at a meeting or by mailing or hand-delivering to the City Clerk.

- ii. If the petition is presented at a meeting, the presenter shall present the petition to the presiding officer through the City Clerk along with a brief overview of the reason for the petition. Such presentation shall be limited to three minutes.
- iii. If the petition is sent by mail or hand-delivered to the City Clerk, the petition shall provide the reason for the petition. Upon receipt of the petition, the City Clerk shall place the item on the agenda with a copy of the petition for the next available meeting for discussion.

## **V. OPENING INVOCATION**

- A. It shall be the policy of the City Council that the procedures stated in this rule concerning opening invocation shall govern all official meetings of the City Council and that the members of the City Council and City staff shall adhere to these rules. These policies and procedures are not intended, shall not be implemented, and shall not be construed in any way to affiliate the City Council or the City with, nor express a preference for or against any faith, belief, opinion, religion, or denomination. Rather, these policies and procedures are intended to acknowledge and express the City Council respect for the diversity of religious denominations and faiths represented and practiced among the citizens of the City.
  1. After the Call to Order of all official meetings of the City Council an Opening Invocation as described herein shall occur. The opening invocation will occur and be completed during the opening, ceremonial portion of the City Council meeting and shall in no event occur, or be construed to occur, during the policymaking or legislative portions of the City Council meeting. If the selected speaker is absent or a selection cannot be made for any reason, the invocation will consist of a brief moment of silence.
  2. The opening invocation will be performed by a local volunteer selected in accordance with these rules. The local volunteer selected for leading the opening invocation shall be selected from a wide pool of local clergy as specified below, and he/she shall in no event receive compensation from the City for his/her participation or services. To ensure that such person is selected from among a wide pool of local clergy, on a rotating basis, the invocation speaker shall be selected according to the following procedure:
    - a. The City Clerk or his/her designee shall compile and maintain a database of the religious congregations with an established presence within the jurisdictional limits of the City of Port Orange and Volusia County.
    - b. The Congregation List shall be compiled by referencing the listings for "churches," "congregations," or other similar religious assemblies located within the jurisdictional limits of the City and Volusia County in the annual Yellow Pages telephone book(s) published for the City

and Volusia County, research from the Internet, and/or consultation with local chambers of commerce. All religious congregations with an established presence within the jurisdictional limits of the City and Volusia County are eligible to be, and shall be, included in the Congregation List. Any such congregation, entity, organization, or individual within the jurisdictional limits of the City and Volusia County not otherwise identified for participating may request inclusion on the Congregation List by written communication directed to the City Clerk that references the opening invocation. This policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious congregation within the jurisdictional limits of the City and Volusia County. The Congregation List is compiled and used for purposes of logistics, efficiency, and equal opportunity for all religious leaders within the jurisdictional limits of the City and Volusia County to choose whether to respond to the City Council's Invitation and participate. The City Clerk or his/her designee may not inquire into the faith, denomination, or other religious belief of the congregation before adding it to the Congregation List.

- c. The Congregation List shall also include the name and contact information of any religious congregation located outside the City and Volusia County, if such religious congregation is attended by a resident or residents of the City or Volusia County, and such resident requests the inclusion of said religious congregation by specific written communication to the City Clerk.
  - d. The Congregation List shall also include the name and contact information of any chaplain who may serve one or more of the fire departments or law enforcement agencies of the City and Volusia County.
  - e. The Congregations List shall be updated, by reasonable efforts of the City Clerk or his/her designee, on or about the month of July of each calendar year.
3. Within thirty (30) days of the effective date of this policy, and on or about May 1 of each calendar year thereafter, the City Clerk or his/her designee shall mail or email an invitation addressed to the religious leader, chaplain, minister, rabbi or similar, or other contact person of each congregation listed on the Congregations List. The invitation will comport with substantially the following form:

*Dear Sir or Madam:*

*The City of Port Orange City Council makes it a policy to invite members of the clergy and other religious leaders having an established presence within the jurisdictional limits of the City of Port Orange and Volusia County to voluntarily offer an invocation before the beginning of its meetings for the benefit and blessing of the City Council. As the leader of one of the religious congregations with an established presence within the jurisdictional limits of the City and Volusia County, you are*



*invited to offer this important service at an upcoming meeting of the City Council.*

*If you are willing to assist the City Council in this regard, please send a written reply at your earliest convenience to the City Clerk at the address included on this letterhead or via email at [cityclerk@port-orange.org](mailto:cityclerk@port-orange.org). Invocation speakers are scheduled on a first-come, first-serve basis. The dates of the City Council's scheduled meetings for the upcoming year are included below. If you have a preference among the date, please state that request in your written reply.*

*This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. The invocation should be brief and succinct. To maintain a spirit of respect and ecumenism, the City Council respectfully requests that the invocation opportunity not be exploited as an effort to convert others to the particular faith of the invocation speaker, nor to disparage any faith or belief different than that of the invocation speaker or otherwise threaten damnation or denigrate nonbelievers.*

*On behalf of the City Council of the City of Port Orange, I thank you in advance for considering this invitation.*

*Regards,  
City Clerk or his/her designee*

4. As the invitation letter shall state, the respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver a brief and succinct invocation. All reasonable efforts shall be made to ensure that a variety of invocation speakers are scheduled for City Council meetings. Notwithstanding the preceding, no invocation speaker shall be scheduled to offer an invocation at consecutive meetings of the City Council, or at more than three (3) City Council meetings in any calendar year.
5. No member of the City Council, City employee or staff shall engage in any prior inquiry, review, or involvement in, the content of any invocation to be offered by an invocation speaker.
6. No member of the City Council, City employee or staff, or any other person in attendance at the meeting shall be required to participate in any opening invocation that is offered. An opportunity to exit the City Council Chambers and return upon completion of the opening invocation is afforded to those who do not wish to participate or witness the opening invocation. Persons in attendance at the City Council meeting are invited to stand during the opening invocation and Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. Such invitation constitutes a general invitation that a person in attendance may stand if he/she wishes to do so for such observances.

7. The following statement shall be placed at the bottom of City Council meeting agendas:

*Any invocation that is offered before the official start of the City Council meeting shall be the voluntary offering of a private person, to and for the benefit of the City Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council or the city staff, and the City is not allowed by law to endorse the religious beliefs or views of this, or any other speaker. Persons in attendance at the City Council meeting are invited to stand during the opening invocation and Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered. A person may exit the City Council Chambers and return upon completion of the opening invocation if a person does not wish to participate in or witness the opening invocation.*

## **VI. CITY BOARD, COMMITTEE, COUNCIL AND AGENDA APPOINTMENTS.**

- A. All appointments to city boards, commissions, and committees whose members are not subject to appointment by other entities, and in accordance with any applicable restrictions by State Statute, shall be made in accordance with the following procedures:
  1. All vacancies subject to appointment to such city boards, commissions, and committees shall be made on a nomination basis by each of the members of the City Council. This nomination shall be construed to be a Motion to Appoint. When more than one nominee has been identified for a single vacancy, voting may be conducted by written ballot which shall include the name of the Councilmember and the name of the nominee. Written ballots shall be read aloud into the record.
  2. Roster lists and volunteer applications for City boards, commissions, and committees shall be established and maintained by the City Clerk's office.
  3. Appointments for vacancies occurring on a board wherein the particular member has, for whatever reason, not fulfilled their entire term of membership on that particular board, commission, or committee, shall be to complete the unexpired term only, unless the unexpired term is for a period of time less than six (6) months. In that event, the appointed member shall then be allowed to serve the following full regular term without reappointment.

## **VII. DOCUMENTS**

All documents, photographs or other materials submitted to the City Council for their consideration shall be maintained by the City Clerk in accordance with the public records law. Each presenter submitting such materials shall provide copies

to each Councilmember, as well as the City Manager, City Attorney, and City Clerk.

## **VIII. CEREMONIAL GUIDELINES**

*Certificates of Achievement* are ceremonial documents that recognize an individual's service or extraordinary achievement. They do not have any legislative value.

Prepared on appropriate paper that includes a watermark of the City Seal in the background, along with the *who* and *what* (the achievement) as supplied by the requestor and will be signed by the Mayor.

*Proclamations* are official City related announcements and/or public declarations issued by the Mayor. They are ceremonial in nature and do not have any legislative value. Below are examples of proclamations that have previously been issued upon request annually; however, some may not be requested every year others may be requested through this process, as well.

- Teacher of the Year – Multiple proclamations – January
- Human Trafficking – January
- Freemanville Day – February
- Sunshine Week – March
- Vietnam War Veterans Day – March
- Government Finance Professionals Week – March
- Child Abuse Prevention – April
- Arbor Day – April
- Water Conservation Month – April
- Municipal Clerk's Week - May
- Memorial Day – May
- American Cancer Society's Relay for Life - May
- Women's Lung Health Week – May
- Parks & Recreation Month - July
- Constitution Week – September
- Childhood Cancer Month – September
- Florida Government Week – October
- Domestic Abuse Month – October
- Breast Cancer Awareness Month – October
- Veterans Day – November
- Small Business Saturday – November
- Purple Heart – November

Proclamations are prepared on 8 ½ x 11 paper, be enclosed in a certificate holder, and include the following:

- *Whereas* clauses providing information that basically describe the five W's (who, what, when, where, and why)
- *A Now, Therefore Be It Resolved* clause proclaiming a specific event
- An execution date representing the date the Mayor signed the document or the date of the event
- Signature of the Mayor
- City Seal

*Keys to the City* are an honor bestowed by the City upon distinguished persons and honored guests of the City of Port Orange. It symbolizes outstanding civic contributions of the recipient and should be given out only in extraordinary circumstances.

The Key to the City is the City's most prestigious award and will only be used to recognize exceptional achievement or to bestow honor upon distinguished persons and honored guests of the City of Port Orange.

These ceremonial declarations are issued for the following reasons:

1. Recognition of action or service above and beyond the call of duty,
2. Recognition of extraordinary achievement,
3. Supporting actions that improve the quality of life of the Port Orange community, or
4. To raise public awareness of issues that directly affect the Port Orange community.

### **Request Process**

An application form, maintained by the City Clerk's Office, for a Proclamation or Certificate of Achievement should be submitted to the City Clerk's Office at least ten (10) business days prior to the event, along with a sample proclamation. Individuals/organizations are encouraged to submit their request as early as possible. Applications received after the deadline will be prepared based upon staff availability. Requestors will be advised when issuance cannot occur by the event date.

The City Clerk, or his/her designee, will initially review all applications and forward to the City Manager for final approval. The City Manager can seek concurrence from the Mayor if there are concerns.

### **Receipt of Final Document**

Individuals/organizations have several options for receiving the finalized document:

1. Proclamation/Certificate can be picked up from the City Clerk's Office/City Hall.
2. Presentation can occur prior to the start of any City Council Meeting/Workshop.
3. Presentation can occur at a regularly scheduled Council Meeting which may require additional information for agenda purposes.
4. Presentation can occur at an event sponsored by the individual/organization subject to the availability of the Mayor or a City Councilmember.

Coordination will be handled by the City Clerk's Office.

### **Media Coverage**

The individual/organization requesting a proclamation or Certificate of Achievement will arrange for any and all media coverage. If media coverage is expected, the individual/organization shall notify the City's Public Information Officer in advance of the meeting.

### **Contact Information**

Mailing Address: City Clerk's Office  
City of Port Orange  
1000 City Center Circle  
Port Orange, FL 32129

Telephone: 386-506-5563  
Email: cityclerk@port-orange.org

**IX. CITY MANAGER/CITY ATTORNEY ANNUAL REVIEW.**

The City Council shall annually conduct a performance evaluation and salary review of the City Manager and City Attorney in accordance with their respective employment agreements.

Approved and adopted by the City Council of the City of Port Orange, Florida, at the Regular City Council Meeting held on the \_\_\_\_ day of January, 2022.

\_\_\_\_\_  
Donald O. Burnette, Mayor

ATTEST:

\_\_\_\_\_  
Robin L. Fenwick, MMC, City Clerk



**PORT ORANGE CITY COUNCIL**  
**LOCAL RULES OF PROCEDURE**

**I. GENERAL PARLIAMENTARY RULES.**

The general parliamentary procedure to be followed by the City Council of the City of Port Orange, Florida, except as otherwise modified by the City Council or as modified or amended herein, shall be in accordance with the most current edition of Robert's Rules of Order, Newly Revised.

**II. PRESIDING OFFICER AND DUTIES.**

- A. The Mayor, if present, shall preside at all meetings of the Council. In the absence of the Mayor, the Vice Mayor shall preside.
- B. The meetings of the Council shall be called to order, recessed and adjourned by the presiding officer.
- C. The presiding officer shall preserve order and enforce the rules of decorum and conduct set forth herein.
- D. The presiding officer shall determine all points of order, subject to the right of any Councilmember to appeal to the Council. If any appeal is taken, the question shall be, "Shall the decision of the presiding officer be sustained?" A majority of the Council sitting and eligible to vote is required to reverse the ruling of the presiding officer.
- E. The presiding officer may call another Councilmember to temporarily chair the meeting to make a motion, or to cover a temporary absence, such substitution is not to continue beyond adjournment.

**III. LOCAL RULES.**

- A. The following Local Rules of Procedure ("Local Rules") shall be applicable to the organization and conduct of business, as well as preparation and publication of agendas, of the City Council of the City of Port Orange, Florida. To the extent these Local Rules shall modify or conflict with the standard "Robert's Rules of Order" as adopted above, these Local Rules shall prevail to the extent of their conflict or inconsistency with "Robert's Rules of Order". The approval of these Local Rules shall take place at the first meeting held in January of each year, or as soon as possible thereafter.

- 1. Regular meetings of the City Council shall typically be held on the first and third Tuesdays of each month, with exceptions due to holidays and Port Orange municipal election dates, at 6:30 p.m. These meeting dates and times are subject to change as determined necessary by the City Council or to comply with the City's Charter. There shall be no regular City Council meeting on the date of a Port Orange municipal election.

A meeting that would otherwise have been scheduled for such date shall be held on the Wednesday immediately following the election at 6:30 p.m.

2. Workshops of the City Council shall be held as needed on the fourth Tuesday of each month at such time and place as set by Council or the City Manager. Every effort will be made to avoid the scheduling of workshops in the months of November and December. Workshops may also be scheduled at other times as determined necessary by the City Council or the City Manager.
3. All regular City Council meetings shall be held in the City Council Chambers at City Hall unless otherwise designated by the City Council. All City Council workshops will typically be held in the Second Floor Conference Room, Lakeside Community Center, the Adult Activity Center, or the Council Chambers at City Hall, as determined by the City Manager.
4. There may also be special meetings or workshops at such other times designated in advance by the City Council for the purposes of holding joint meetings with City boards, commissions, etc., to include receiving annual reports and presentations from the City's boards, committees, agencies and authorities, or for such other purposes as may be deemed necessary or desirable by the City Council.
5. Special meetings shall be called at the request of the Mayor or any two Councilmembers in accordance with the provisions of the City Charter and the Code of Ordinances.
6. Ex Parte Communication and Quasi-Judicial Proceedings shall be governed by City Council Resolution No. 00-65. At a minimum, all parties to a Quasi-Judicial Proceeding shall be entitled to the following:
  - a. An opportunity to call and examine witnesses, who shall be sworn;
  - b. An opportunity to introduce evidence;
  - c. An opportunity to cross examine witnesses; and
  - d. An opportunity to rebut evidence.
7. To the extent compatible with the conduct of business, all workshops shall be held on an informal basis. The applicability of the City's general rules shall not be strictly applied. Presentations made at workshop meetings shall be limited to twenty (20) minutes, unless the Council, by consensus, agrees to extend the time.
8. The City Manager shall be responsible for the organization and placement of items on the City Council Agenda; however, the Agenda and Agenda packets shall be prepared by the City Clerk. If the Council or any of its members wish to place an item on an agenda, any such request or inquiry shall be directed to the City Manager's office for disposition as opposed to any Councilmember contacting any City officer or employee who is subject to the direction and supervision of the City Manager.

9. With regard to the agenda for regular City Council meetings, the following shall apply:
  - a. To the extent possible, the City Administration shall group all matters by subject area and shall place as many items as possible on the consent portion of the agenda. Those items of a controversial nature or those that need an explanation will not be placed on the Consent Agenda.
  - b. The Consent Agenda shall be considered by Council only after the public has had an opportunity to comment on the items included. Should Council need further discussion to occur on a Consent Agenda Item, he/she may motion for the item to be pulled and discussed separately. Those items pulled will be discussed immediately following the Consent Agenda approval.
  - c. The agenda format shall generally be as follows: Call to Order; Invocation; Pledge of Allegiance; Roll Call; Recognition and Proclamations; Consent Agenda (to include Public Comments on Consent Agenda Items and Agenda Approval); Public Participation (Agenda); Public Participation (Non-Agenda); Council Comments; Special Reports; Board Appointments, Interviews, and Reports; Tabled Items; Public Hearings (to include second readings of ordinances); Regular Agenda, (to include first readings of ordinances); Additional Items from the City Attorney and the City Manager; and Council Committee reports. The agenda format is subject to change at the discretion of the City Manager or upon consensus of Council.
  - d. Any items received during the public participation (non-agenda) portion of the agenda may, at the discretion of the Council, be discussed by the City Council at the time of such presentation, may be directed to the City Manager for action or resolution by the Council or may be added to a subsequent meeting or workshop agenda if a member of the City Council so specifically requests.
  - e. Votes taken on ordinances and resolutions shall be by roll call and shall be recorded by the City Clerk. All roll call votes shall be in the order of District with District 1 voting first, District 2 voting second, and so on, with the Vice Mayor always voting fourth and the Mayor voting last.
  - f. Once a motion has been made, seconded, and voted upon, it is final, except that the Council may reconsider that matter at the same meeting at which the motion was voted upon or the immediate subsequent meeting. If reconsideration is requested for an immediate subsequent meeting, the Councilmember requesting reconsideration shall notify the City Clerk in advance of the meeting at which the reconsideration will take place and provide the reasons for requesting reconsideration to allow the City Clerk to include the request as part of the meeting agenda and properly notice the item to be reconsidered. The City Clerk shall consult with the City Attorney's Office to determine the sufficiency of notice to



interested parties. To reconsider a final vote of the City Council, a motion to reconsider shall be made by a member of the Council that voted on the prevailing side. The City Council shall establish for the public record the reasons that a reconsideration of the final vote was warranted.

- g. A motion made by a Councilmember to approve an item on the agenda or the consent agenda by reference to the agenda item number and/or the title of the agenda item shall automatically incorporate staff's recommended motion (as set forth in the agenda packet) unless a clear indication to the contrary is made on the record.

10. The City Council of the City of Port Orange is committed to maintaining civility in public and political discourse and encourages the public to do the same. To promote civil discourse and avoid a confrontational atmosphere, all comments by members of the Council, advisory board members, and/or the public should:

- a. Respect the right of all citizens in our community to hold different opinions;
- b. Avoid rhetoric intended to humiliate or question the wisdom of those whose opinions are different from ours;
- c. Strive to understand differing perspectives;
- d. Be truthful, not accusatory, and avoid distortion; and
- e. Avoid violence, prejudice, and incivility towards citizens, employees, and officials of the City of Port Orange.

11. Cell phone ringers shall be disabled while a meeting or workshop is in progress.

#### **IV. PUBLIC PARTICIPATION.**

A. The City of Port Orange recognizes the statutorily created right of the public to be heard on propositions in front of City Council as set forth in Section 286.0114, Florida Statutes, and is committed to democratic, participatory local government. The following rules, guidelines, and procedures are intended to promote orderly conduct and defined methods for participation. The presiding officer shall have the authority to enforce these rules and may request the removal of any individual who has been warned of and persists with prohibited conduct.

##### **1. General Rule**

- a. Members of the public shall be given a reasonable opportunity to be heard on a proposition before City Council, subject to the rules, guidelines, and procedures set forth herein. The opportunity to be heard need not occur at the same meeting at which City Council takes official action on the proposition if the opportunity occurs at a meeting that is during the decision-making process and is within reasonable

proximity in time before the meeting at which City Council takes the official action.

- b. Public participation is not required under the following circumstances:
  - i. An official act must be taken to deal with an emergency situation affecting the public health, welfare, or safety, and public participation would cause an unreasonable delay in the ability of the City Council to act;
  - ii. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
  - iii. A meeting that is exempt from s. 286.011, Florida Statutes; or
  - iv. A meeting during which the board or commission is acting in a quasi-judicial capacity, unless otherwise provided by law.

## 2. Meeting Decorum and Conduct

- a. Individuals may only make comments from the podium, or such other reasonable accommodation, after being recognized by the presiding officer.
- b. Prior to commenting, individuals are required to clearly state their name and city of residence for the record in order to preserve an accurate public record reflected in the meeting minutes for future reference.
- c. All comments shall be directed to the presiding officer and shall not contain profane, aggressive or threatening language, or personal verbal attacks.
- d. Repetitive, redundant, or immaterial presentations or requests may be limited, and shall not resume unless authorized by a majority vote of the City Council.
- e. Comments shall be limited to the allotted times set forth herein, but additional comments may be submitted in writing to supplement and fully address any issue. The presiding officer shall have the discretion to provide additional time for a representative who can produce supporting documentation or evidence that he or she is authorized to speak on behalf of a group or faction comprised of five or more members of the public.
- f. Individuals attending a City Council meeting may choose to either hold a sign or place a sign along the rear wall of Council Chambers. Signs shall not be placed or held in any manner which obstructs the view of other audience members or obstructs access to or from Council Chambers. Signs shall not be waived or lighted in any manner that causes distraction to the Councilmembers or members of the

audience during a City Council meeting or workshop. Signs shall not be affixed to the walls or other surfaces within the meeting room.

### 3. Procedures and Guidelines for Public Participation

#### a. Public Participation – Non-Agenda

- i. The City Council allocates 20 minutes at each regularly scheduled City Council Meeting for members of the public who wish to appear before the City Council to make a request, voice a complaint or concern, express an opinion, or give recognition. Council may extend the allocated time by the majority vote of the Council.
- ii. Members of the public who wish to be heard shall complete a public participation form and provide the completed form to the City Clerk prior to the beginning of the meeting. Public participation forms shall be made available outside Council Chambers one hour prior to the meeting and in the City Clerk's Office during regular business hours. The City Clerk shall present all completed forms to the presiding officer prior to the beginning of the meeting.
- iii. The presiding officer shall divide the time allocated equally between all who have signed up to speak. Each individual shall be afforded no more than three minutes to speak unless such time is extended by a majority vote of City Council.
- iv. If an item brought forward under Public Participation – Non-Agenda requires a longer presentation by the presenter or will require staff research of materials, the item may be scheduled for a future City Council Meeting under Public Participation – Agenda if a member of City Council so specifically requests.

#### b. Public Participation – Agenda

- i. The City Council shall reserve a section of the agenda dedicated to hearing Public Participation items requiring more than three minutes to fully address.
- ii. Members of the public who wish to have their discussion item placed on the agenda shall file the request with the City Clerk at least three weeks in advance of the Council Meeting at which the item is to be heard. The request shall include the nature of the discussion and any supporting information to be considered.
- iii. The City Clerk shall forward a copy of the request and supporting information to the appropriate City Department(s) so that research may be conducted, and information may be provided by staff as part of the agenda item to assist City Council in making a decision.

- iv. Requests shall be forwarded to the appropriate City Advisory Board or Commission for recommendations to the City Council prior to placement on an agenda, when applicable.
  - v. Public Participation Agenda Items shall be considered in the following format:
    - 1. Presentation by requestor
    - 2. Questions of the requestor by City Council
    - 3. Presentation by City staff, if necessary
    - 4. Questions of City staff by City Council
    - 5. Public comments, if any action is to be taken by City Council
    - 6. Take action or provide direction, if necessary
  - vi. The requestor and City staff shall each be given 10 minutes to address the agenda item, unless extended by the majority vote of Council. Presentations shall be clear, concise, and to the point. Presentation materials shall be provided to the City Clerk at least 48 hours prior to the meeting date. The City Clerk will upload the presentation materials to the computer in Council Chambers. If action is to be taken by City Council, the public shall be afforded no more than three minutes each to speak.
- c. Public Hearings, Regular Agenda, and Consent Agenda Items
- i. Members of the public shall be given an opportunity to be heard on public hearing items and regular agenda items once the applicant has completed his or her presentation, the City Staff has completed its presentation on the issue, and interested parties, if any, have completed their presentation; and before a decision has been made by City Council.
  - ii. Members of the public who wish to be heard on a particular item listed on the agenda may choose to complete a public participation form and turn-in the completed form to the City Clerk in advance of the meeting or raise a hand and wait to be called-on when the presiding officer opens the floor to comments from the public.
  - iii. Applicant(s) and City Staff shall have as much time as necessary to make their presentation before the City Council. Each member of the public shall have no more than three minutes to be heard once recognized by the presiding officer.
- d. Submission of Petitions
- i. Petitions may be presented to Council during public participation at a meeting or by mailing or hand-delivering to the City Clerk.
  - ii. If the petition is presented at a meeting, the presenter shall present the petition to the presiding officer through the City Clerk along

with a brief overview of the reason for the petition. Such presentation shall be limited to three minutes.

- iii. If the petition is sent by mail or hand-delivered to the City Clerk, the petition shall provide the reason for the petition. Upon receipt of the petition, the City Clerk shall place the item on the agenda with a copy of the petition for the next available meeting for discussion.

## **V. OPENING INVOCATION**

A. It shall be the policy of the City Council that the procedures stated in this rule concerning opening invocation shall govern all official meetings of the City Council and that the members of the City Council and City staff shall adhere to these rules. These policies and procedures are not intended, shall not be implemented, and shall not be construed in any way to affiliate the City Council or the City with, nor express a preference for or against any faith, belief, opinion, religion, or denomination. Rather, these policies and procedures are intended to acknowledge and express the City Council respect for the diversity of religious denominations and faiths represented and practiced among the citizens of the City.

1. After the Call to Order of all official meetings of the City Council an Opening Invocation as described herein shall occur. The opening invocation will occur and be completed during the opening, ceremonial portion of the City Council meeting and shall in no event occur, or be construed to occur, during the policymaking or legislative portions of the City Council meeting. If the selected speaker is absent or a selection cannot be made for any reason, the invocation will consist of a brief moment of silence.
2. The opening invocation will be performed by a local volunteer selected in accordance with these rules. The local volunteer selected for leading the opening invocation shall be selected from a wide pool of local clergy as specified below, and he/she shall in no event receive compensation from the City for his/her participation or services. To ensure that such person is selected from among a wide pool of local clergy, on a rotating basis, the invocation speaker shall be selected according to the following procedure:
  - a. The City Clerk or his/her designee shall compile and maintain a database of the religious congregations with an established presence within the jurisdictional limits of the City of Port Orange and Volusia County.
  - b. The Congregation List shall be compiled by referencing the listings for "churches," "congregations," or other similar religious assemblies located within the jurisdictional limits of the City and Volusia County in the annual Yellow Pages telephone book(s) published for the City and Volusia County, research from the Internet, and/or consultation with local chambers of commerce. All religious congregations with an established presence within the jurisdictional limits of the City and

Volusia County are eligible to be, and shall be, included in the Congregation List. Any such congregation, entity, organization, or individual within the jurisdictional limits of the City and Volusia County not otherwise identified for participating may request inclusion on the Congregation List by written communication directed to the City Clerk that references the opening invocation. This policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious congregation within the jurisdictional limits of the City and Volusia County. The Congregation List is compiled and used for purposes of logistics, efficiency, and equal opportunity for all religious leaders within the jurisdictional limits of the City and Volusia County to choose whether to respond to the City Council's Invitation and participate. The City Clerk or his/her designee may not inquire into the faith, denomination, or other religious belief of the congregation before adding it to the Congregation List.

- c. The Congregation List shall also include the name and contact information of any religious congregation located outside the City and Volusia County, if such religious congregation is attended by a resident or residents of the City or Volusia County, and such resident requests the inclusion of said religious congregation by specific written communication to the City Clerk.
  - d. The Congregation List shall also include the name and contact information of any chaplain who may serve one or more of the fire departments or law enforcement agencies of the City and Volusia County.
  - e. The Congregations List shall be updated, by reasonable efforts of the City Clerk or his/her designee, on or about the month of July of each calendar year.
3. Within thirty (30) days of the effective date of this policy, and on or about May 1 of each calendar year thereafter, the City Clerk or his/her designee shall mail or email an invitation addressed to the religious leader, chaplain, minister, rabbi or similar, or other contact person of each congregation listed on the Congregations List. The invitation will comport with substantially the following form:

*Dear Sir or Madam:*

*The City of Port Orange City Council makes it a policy to invite members of the clergy and other religious leaders having an established presence within the jurisdictional limits of the City of Port Orange and Volusia County to voluntarily offer an invocation before the beginning of its meetings for the benefit and blessing of the City Council. As the leader of one of the religious congregations with an established presence within the jurisdictional limits of the City and Volusia County, you are invited to offer this important service at an upcoming meeting of the City Council.*

*If you are willing to assist the City Council in this regard, please send a written reply at your earliest convenience to the City Clerk at the address included on this letterhead or via email at [cityclerk@port-orange.org](mailto:cityclerk@port-orange.org). Invocation speakers are scheduled on a first-come, first-serve basis. The dates of the City Council's scheduled meetings for the upcoming year are included below. If you have a preference among the date, please state that request in your written reply.*

*This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. The invocation should be brief and succinct. To maintain a spirit of respect and ecumenism, the City Council respectfully requests that the invocation opportunity not be exploited as an effort to convert others to the particular faith of the invocation speaker, nor to disparage any faith or belief different than that of the invocation speaker or otherwise threaten damnation or denigrate nonbelievers.*

*On behalf of the City Council of the City of Port Orange, I thank you in advance for considering this invitation.*

*Regards,  
City Clerk or his/her designee*

4. As the invitation letter shall state, the respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver a brief and succinct invocation. All reasonable efforts shall be made to ensure that a variety of invocation speakers are scheduled for City Council meetings. Notwithstanding the preceding, no invocation speaker shall be scheduled to offer an invocation at consecutive meetings of the City Council, or at more than three (3) City Council meetings in any calendar year.
5. No member of the City Council, City employee or staff shall engage in any prior inquiry, review, or involvement in, the content of any invocation to be offered by an invocation speaker.
6. No member of the City Council, City employee or staff, or any other person in attendance at the meeting shall be required to participate in any opening invocation that is offered. An opportunity to exit the City Council Chambers and return upon completion of the opening invocation is afforded to those who do not wish to participate or witness the opening invocation. Persons in attendance at the City Council meeting are invited to stand during the opening invocation and Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. Such invitation constitutes a general invitation that a person in attendance may stand if he/she wishes to do so for such observances.
7. The following statement shall be placed at the bottom of City Council meeting agendas:

*Any invocation that is offered before the official start of the City Council meeting shall be the voluntary offering of a private person, to and for the benefit of the City Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council or the city staff, and the City is not allowed by law to endorse the religious beliefs or views of this, or any other speaker. Persons in attendance at the City Council meeting are invited to stand during the opening invocation and Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered. A person may exit the City Council Chambers and return upon completion of the opening invocation if a person does not wish to participate in or witness the opening invocation.*

## **VI. CITY BOARD, COMMITTEE, COUNCIL AND AGENDA APPOINTMENTS.**

- A. All appointments to city boards, commissions, and committees whose members are not subject to appointment by other entities, and in accordance with any applicable restrictions by State Statute, shall be made in accordance with the following procedures:
1. All vacancies subject to appointment to such city boards, commissions, and committees shall be made on a nomination basis by each of the members of the City Council. This nomination shall be construed to be a Motion to Appoint. When more than one nominee has been identified for a single vacancy, voting may be conducted by written ballot which shall include the name of the Councilmember and the name of the nominee. Written ballots shall be read aloud into the record.
  2. Roster lists and volunteer applications for City boards, commissions, and committees shall be established and maintained by the City Clerk's office.
  3. Appointments for vacancies occurring on a board wherein the particular member has, for whatever reason, not fulfilled their entire term of membership on that particular board, commission, or committee, shall be to complete the unexpired term only, unless the unexpired term is for a period of time less than six (6) months. In that event, the appointed member shall then be allowed to serve the following full regular term without reappointment.

## **VII. DOCUMENTS**

All documents, photographs or other materials submitted to the City Council for their consideration shall be maintained by the City Clerk in accordance with the public records law. Each presenter submitting such materials shall provide copies to each Councilmember, as well as the City Manager, City Attorney, and City Clerk.

## **VIII. CEREMONIAL GUIDELINES**



*Certificates of Achievement* are ceremonial documents that recognize an individual's service or extraordinary achievement. They do not have any legislative value.

Prepared on appropriate paper that includes a watermark of the City Seal in the background, along with the *who* and *what* (the achievement) as supplied by the requestor and will be signed by the Mayor.

*Proclamations* are official City related announcements and/or public declarations issued by the Mayor. They are ceremonial in nature and do not have any legislative value. Below are examples of proclamations that have previously been issued upon request annually; however, some may not be requested every year others may be requested through this process, as well.

- Teacher of the Year – Multiple proclamations – January
- Human Trafficking – January
- Freemanville Day – February
- Sunshine Week – March
- Vietnam War Veterans Day – March
- Government Finance Professionals Week – March
- Child Abuse Prevention – April
- Arbor Day – April
- Water Conservation Month – April
- Municipal Clerk's Week - May
- Memorial Day – May
- American Cancer Society's Relay for Life - May
- Women's Lung Health Week – May
- Parks & Recreation Month - July
- Constitution Week – September
- Childhood Cancer Month – September
- Florida Government Week – October
- Domestic Abuse Month – October
- Breast Cancer Awareness Month – October
- Veterans Day – November
- Small Business Saturday – November
- Purple Heart – November

Proclamations are prepared on 8 ½ x 11 paper, be enclosed in a certificate holder, and include the following:

- *Whereas* clauses providing information that basically describe the five W's (who, what, when, where, and why)
- *A Now, Therefore Be It Resolved* clause proclaiming a specific event
- An execution date representing the date the Mayor signed the document or the date of the event
- Signature of the Mayor
- City Seal

*Keys to the City* are an honor bestowed by the City upon distinguished persons and honored guests of the City of Port Orange. It symbolizes outstanding civic contributions of

the recipient and should be given out only in extraordinary circumstances.

The Key to the City is the City's most prestigious award and will only be used to recognize exceptional achievement or to bestow honor upon distinguished persons and honored guests of the City of Port Orange.

These ceremonial declarations are issued for the following reasons:

1. Recognition of action or service above and beyond the call of duty,
2. Recognition of extraordinary achievement,
3. Supporting actions that improve the quality of life of the Port Orange community, or
4. To raise public awareness of issues that directly affect the Port Orange community.

### **Request Process**

An application form, maintained by the City Clerk's Office, for a Proclamation or Certificate of Achievement should be submitted to the City Clerk's Office at least ten (10) business days prior to the event, along with a sample proclamation. Individuals/organizations are encouraged to submit their request as early as possible. Applications received after the deadline will be prepared based upon staff availability. Requestors will be advised when issuance cannot occur by the event date.

The City Clerk, or his/her designee, will initially review all applications and forward to the City Manager for final approval. The City Manager can seek concurrence from the Mayor if there are concerns.

### **Receipt of Final Document**

Individuals/organizations have several options for receiving the finalized document:

1. Proclamation/Certificate can be picked up from the City Clerk's Office/City Hall.
2. Presentation can occur prior to the start of any City Council Meeting/Workshop.
3. Presentation can occur at a regularly scheduled Council Meeting which may require additional information for agenda purposes.
4. Presentation can occur at an event sponsored by the individual/organization subject to the availability of the Mayor or a City Councilmember.

Coordination will be handled by the City Clerk's Office.

### **Media Coverage**

The individual/organization requesting a proclamation or Certificate of Achievement will arrange for any and all media coverage. If media coverage is expected, the individual/organization shall notify the City's Public Information Officer in advance of the meeting.

### **Contact Information**

Mailing Address:                      City Clerk's Office  
                                                 City of Port Orange

1000 City Center Circle  
Port Orange, FL 32129

Telephone: 386-506-5563  
Email: cityclerk@port-orange.org

**IX. CITY MANAGER/CITY ATTORNEY ANNUAL REVIEW.**

The City Council shall annually conduct a performance evaluation and salary review of the City Manager and City Attorney in accordance with their respective employment agreements.

Approved and adopted by the City Council of the City of Port Orange, Florida, at the Regular City Council Meeting held on the \_\_\_\_ day of January, 2022.

---

Donald O. Burnette, Mayor

ATTEST:

---

Robin L. Fenwick, MMC, City Clerk



# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/21/2023

---

**SUBJECT:** (F13) Release of a Conservation Easement at 1040 Herbert Street

**DEPARTMENT:** Community Development

**GOAL:** 4 - Economic Development

---

**RECOMMENDED MOTION:** Motion to approve the release of the Conservation Easement at 1040 Herbert Street and authorize the Mayor and City Clerk to execute all necessary documents.

---

**SUMMARY:** The Community Development Department has received a request to relocate the location of a conservation easement on the property located at 1040 Herbert Street. The property owner is requesting the release of an existing conservation easement over approximately 1.5 acres of the 7.3-acre subject property to develop a 77-unit townhome project. The site plan for the project is currently being reviewed by staff and as part of the site plan review, the property owner requested the City release its conservation easement over the 1.5 acres. The site plan that is under review for the project will provide six (6) new tree conservation easements throughout the site, totaling approximately 1.4 acres. The Land Development Code requires the property owner to dedicate a minimum of 1.1 acres or 15% of the 7.3-acre property toward tree preservation. The current site plan under staff review shows 1.4 acres being dedicated as a tree preservation area with a conservation easement.

In August of 2006, as part of St. Johns River Water Management District's (SJRWMD) review of a 2006 townhome site plan for the property, SJRWMD required a conservation easement be dedicated over 1.5 acres of the subject property. Subsequently, in 2006, the City also required a conservation easement with the former property owner that covered the same 1.5 acres as the SJRWMD conservation easement. However, the 2006 project did not move forward, and the easements have remained on the undeveloped property since 2006.

In 2021, the current property owner applied to SJRWMD to release their conservation easement and in August 2021 SJRWMD released their conservation easement over the 1.5 acres. As part of the site plan application for the project, the property owner has requested the City release their Conservation Easement over the 1.5 acres. Based on the determination letter from SJRWMD, SJRWMD determined the wetland within the conservation easement had become hydrologically cut off from any other regional wetlands over time due to development adjacent to the conservation easement area and the wetland is now poor-quality. As part of the approval for the site plan, the property will still be required to purchase wetland mitigation credits for the removal of

---

the poor-quality wetlands on this site.

According to the city's conservation easement, the easement was recorded for the purpose of assuring a portion of the subject property remained natural. The site plan under review for the project provides six (6) new tree conservation easement areas throughout the site totaling approximately 1.4 acres. Therefore, the release of the City conservation easement will not result in the removal of all the natural areas from the subject property as the new conservation easements will ensure areas remain natural. The graphic below shows the general location of the six (6) new Tree Conservation Easements for the proposed project.



The Villa Nova Townhome project site currently has a Future Land Use designation of Urban High-Density Residential (8-16 units/acre) and is currently zoned R-3H Multi-Family Residential (up to 16 units/acres), which allows for the proposed residential development and density. The Villa Nova Townhome development consists of 77 units on 7.3 acres, with a density of 10.5 units/acre. The site plan for the proposed project has been reviewed at the staff level and may be approved once all Land Development Code requirements have been met.

---

PRESENTER: Tim Burman

**ATTACHMENTS:**

|    |                                      |                                          |
|----|--------------------------------------|------------------------------------------|
| 1. | Release of Conservation Easement     | Release of Conservation Easement .pdf    |
| 2. | COPO Conservation Easement 8-2-2006  | Conservation Easement Agmt 8-2-2006.pdf  |
| 3. | SJRWMD Consvtn Emt Release 8-18-2021 | SJRWMD Consvtn Emt Release 8-18-2021.pdf |
| 4. | Villa Nova Easement Exhibit          | ESMT - Easement Exhibit.pdf              |
| 5. | Villa Nova Tree Preservation Plan    | Villa Nova Tree Preservation Plan.jpg    |

Lisa Epstein  
 Tim Burman  
 Shannon Balmer  
 Wayne Clark  
 Tracee Cody

Created/Initiated - 2/21/2023  
 Approved - 3/2/2023  
 Approved - 3/9/2023  
 Approved - 3/14/2023  
 Final Approval - 3/14/2023

This Instrument Prepared By:  
Shannon K. Balmer  
Assistant City Attorney  
City of Port Orange  
1000 City Center Circle  
Port Orange, Florida 32129

Portion of Parcel No. 6337-01-24-0011

Cross Reference to Instrument No. 2006-282662  
Official Records Book 5951 Page 3054

## **RELEASE OF CONSERVATION EASEMENT**

THIS Release of Conservation Easement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation, mailing address: 1000 City Center Circle, Port Orange FL 32129, hereinafter “City,” and **Villa Nova 8.0, LLC**, a Florida limited liability company, with a mailing address of 3817 S. Nova Road Ste 104-163, Port Orange, FL, hereinafter “Villa Nova”.

### W I T N E S S E T H:

WHEREAS, Villa Nova is the fee simple owner of the property where the Easement is located said property being legally in **Exhibit “A”**, attached hereto and made a part hereof by reference (hereinafter “Property”); and

WHEREAS, in August of 2006, as part of St. Johns River Water Management District’s (SJRWMD) review of a 2006 townhome site plan for the Property (“2006 Site Plan”), SJRWMD required a conservation easement over a portion of the Property; and

WHEREAS, on August 2, 2006, The Linen Group, Inc., predecessor-in-interest to Villa Nova, granted to the City a Conservation Easement, that document having been filed of record on November 13, 2006, in Official Records Book 5951, Pages 3054, et seq., Public Records of Volusia County, Florida (hereinafter referred to as the “Easement”); and

WHEREAS, the Easement is graphically depicted and legally described in Official Records Book 5951, Pages 3054, et seq of the Public Records Volusia County, Florida; and

WHEREAS, the Easement granted to the City and SJRWMD during the 2006 Site Plan review was in furtherance of developing the Property but said development never occurred; and

WHEREAS, in 2021, the Villa Nova applied to SJRWMD to release their conservation easement and in August 2021 SJRWMD released their conservation easement as recorded in Official Records Book 8109, Page 3042, Public records, Volusia County, Florida; and

WHEREAS, Villa Nova, has requested the City release the Easement as the current site plan proposed (“Current Site Plan”) differs significantly from the 2006 Site Plan and contemplates the use of a portion of the current Easement for a portion of the Current Site Plan; and

WHEREAS, the specific area of the Easement being released is legally described and graphically depicted on **Exhibit “B”** attached hereto, and made a part hereof; and

WHEREAS, the City, as the owner of the Easement, has determined the release of the easement, on the attached **Exhibit “B”** will not compromise conservation efforts on the Property as the Current Site Plan will be required to comply with tree preservation and conservation requirements set forth in the LDC.

NOW, THEREFORE, the City of Port Orange does hereby release, terminate and cancel any and all right, title, and interest in the Easement of record in Official Records Book 5951, Pages 3054, Public Records, Volusia County, Florida, more particularly described and graphically depicted on attached **Exhibit “B”**, to Villa Nova, its successors and assigns forever.

IN WITNESS WHEREOF, the City has executed this Release of the Tree Conservation Easement by and through its duly authorized representatives on the day and year first above written.

Signed in the presence of:

**CITY OF PORT ORANGE, FLORIDA**  
a Florida chartered municipal corporation

Witness: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

Witness: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Donald O. Burnette, Mayor

Attest: \_\_\_\_\_  
Robin L. Fenwick, MMC, City Clerk

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing **RELEASE OF CONSERVATION EASEMENT** was acknowledged before me by means of [XX] physical presence or [ ] online notarization this \_\_\_\_ day of \_\_\_\_\_, 2023, by Donald O. Burnette, Mayor, and Robin L. Fenwick, City Clerk, both on behalf of the City of Port Orange, Florida, a chartered municipal corporation, for the purposes stated herein. They are personally known to me.

\_\_\_\_\_  
Signature of Notary Public, State of Florida  
Printed name, Commission, Seal, and Term Expiration:



## EXHIBIT A

TRACT 6, TRACT 5 AND THAT PART OF TRACT 4 OF THE REPLAT OF A PORTION OF THE DIVISION OF LOT 5, SECTION 5, TOWNSHIP 16 SOUTH, RANGE 33 EAST, AS RECORDED IN MAP BOOK 34, PAGE 14, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID PARCEL BEING PARTICULARLY DESCRIBED AS FOLLOWS:

AS THE TRUE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF SOUTHERLY RIGHT-OF-WAY LINE OF WEST HERBERT STREET, A 60 FOOT RIGHT-OF-WAY, AS REPLATTED; AND THE EAST LINE OF SAID SECTION 5, THENCE RUN SOUTH 25°29'38" EAST A DISTANCE OF 307.79 FEET; THENCE SOUTH 89°48'05" WEST A DISTANCE OF 270.00 FEET; THENCE SOUTH 00° EAST 40.00 FEET; THENCE SOUTH 89°48'05" WEST 328.09 FEET; THENCE SOUTH 00° 11'55" EAST 98.00 FEET; THENCE SOUTH 89°48'05" WEST 75.00 FEET; THENCE NORTH 00° WEST 236.00 FEET TO THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST HERBERT STREET, A 60 FOOT RIGHT-OF-WAY AS PLATTED IN MAP BOOK 34, PAGE 14, THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY ON AN ARC TO THE RIGHT HAVING A CENTRAL ANGLE OF 06°38'56", A CHORD BEARING OF NORTH 51°40'32" EAST WITH A RADIUS OF 399.63 FEET AND A LENGTH OF 46.38 FEET; THENCE CONTINUING ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST HERBERT STREET ON AN ARC CURVING TO THE RIGHT WITH A COMMON TANGENT TO THE PREVIOUS CURVE HAVING A CENTRAL ANGLE OF 05°48'56" AND A RADIUS OF 944.14 FEET AND A LENGTH OF 95.83 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 60°48'55" EAST A DISTANCE OF 106.23 FEET TO A POINT OF CURVATURE TO THE RIGHT; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ON AN ARC HAVING A CENTRAL ANGLE OF 26°14'40" AND A RADIUS OF 284.07 FEET AND A LENGTH OF 130.12 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 87°03'35" EAST 132.89 FEET TO A POINT OF CURVATURE TO THE LEFT; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ON ARC HAVING A CENTRAL ANGLE OF 06°41'02" AND A RADIUS OF 639.51 FEET AND A LENGTH OF 74.60 FEET TO THE POINT OF BEGINNING.

## EXHIBIT B

### LEGAL DESCRIPTION FOR ST JOHNS RIVER WATER MANAGEMENT DISTRICT CONSERVATION EASEMENT

A PART OF LOT 1, BLOCK 24, DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187. PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF AFORESAID LOT 1, BLOCK 24, DUNLAWTON; THENCE N25°28'46"W A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N25°28'46"W A DISTANCE OF 557.29 FEET TO A NON TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 11°59'10", A CHORD OF 92.92 FEET, AND A CHORD BEARING OF N71°22'16"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 93.09 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 24.00 FEET, A CENTRAL ANGLE OF 249°50'08", A CHORD OF 39.36 FEET, AND A CHORD BEARING OF S17°44'12"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 104.65 FEET; THENCE S24°43'32"E A DISTANCE OF 36.21 FEET; THENCE S37°12'04"E A DISTANCE OF 31.71 FEET; THENCE S08°14'22"E A DISTANCE OF 25.30 FEET; THENCE S60°33'29"E A DISTANCE OF 32.68 FEET TO THE POINT OF CURVATURE A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 21.00 FEET, A CENTRAL ANGLE OF 28°21'46", A CHORD OF 10.29 FEET, AND A CHORD BEARING OF S46°22'36"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 10.40 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S32°11'43"E A DISTANCE OF 8.95 FEET; THENCE S08°50'43"E A DISTANCE OF 4.37 FEET; THENCE S32°13'09"E A DISTANCE OF 7.52 FEET; THENCE S55°35'35"E A DISTANCE OF 4.36 FEET; THENCE S32°11'43"E A DISTANCE OF 6.61 FEET; THENCE S58°03'56"E A DISTANCE OF 10.88 FEET; THENCE S68°44'11"E A DISTANCE OF 46.42 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 7.00 FEET, A CENTRAL ANGLE OF 61°03'55", A CHORD OF 7.11 FEET, AND A CHORD BEARING OF S38°12'14"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 7.46 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S07°40'17"E A DISTANCE OF 68.86 FEET; THENCE S24°34'51"E A DISTANCE OF 29.36 FEET; THENCE S63°16'16"W A DISTANCE OF 16.45 FEET; THENCE S26°43'44"E A DISTANCE OF 78.00 FEET; THENCE N63°16'16"E A DISTANCE OF 21.76 FEET; THENCE S25°33'31"E A DISTANCE OF 14.66 FEET; THENCE S62°45'05"E A DISTANCE OF 7.68 FEET; THENCE S25°27'03"E A DISTANCE OF 105.50 FEET; THENCE S64°46'30"W A DISTANCE OF 141.06 FEET TO THE POINT OF BEGINNING.

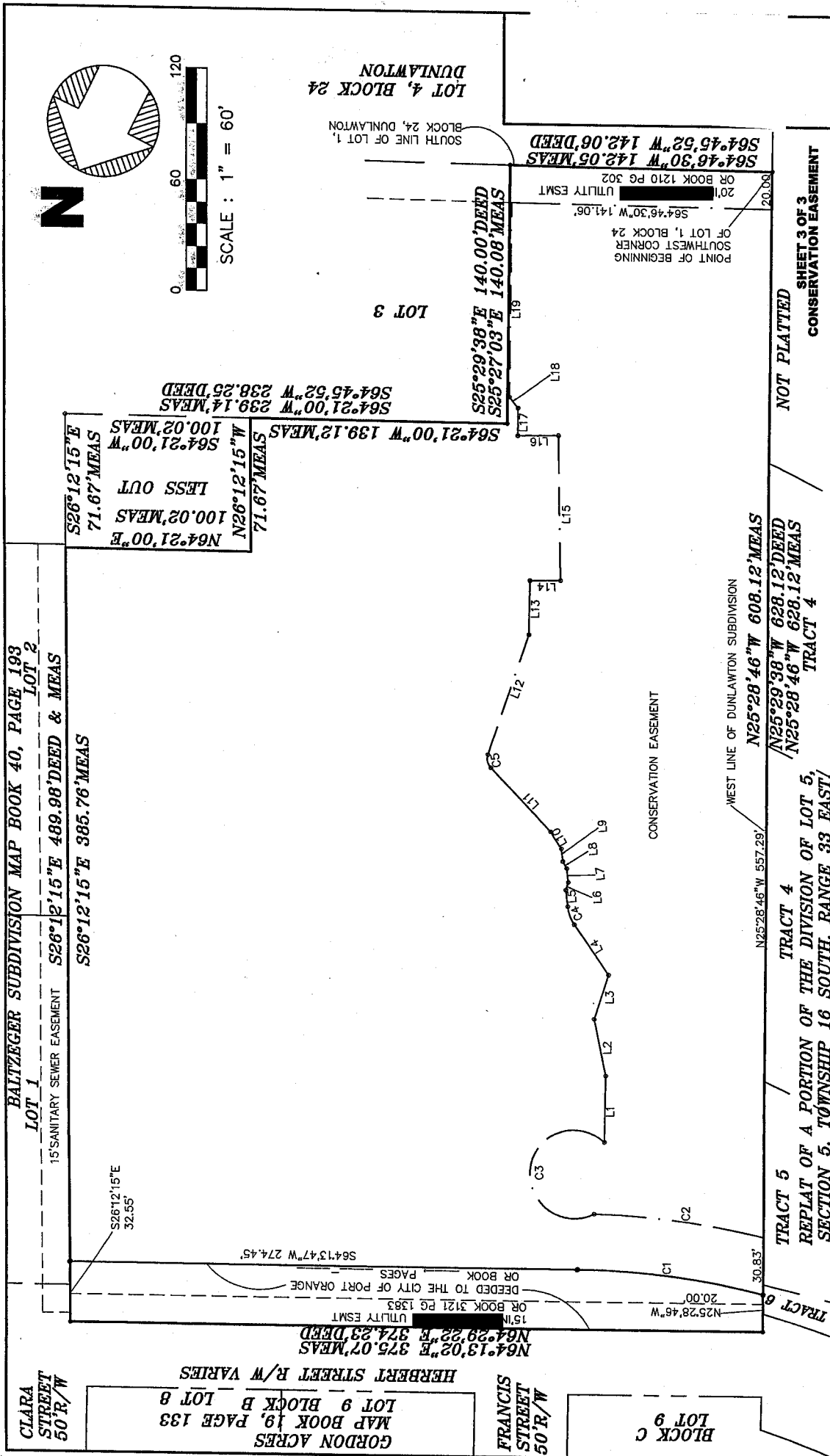
CONTAINING 66,583 SQUARE FEET = 1.53 ACRES MORE OR LESS

PREPARED BY:  
HARPSTER ENGINEERING & SURVEYING, INC.  
436 NORTH GRANDVIEW AVENUE  
DAYTONA BEACH, FL 32118  
PHONE 386- 253-3241  
FAX 386-253-2502

SHEET 1 OF 3  
CONSERVATION EASEMENT

| LINE TABLE |         |             |
|------------|---------|-------------|
| LINE       | LENGTH  | BEARING     |
| L1         | 36.21'  | S24°43'32"E |
| L2         | 31.71'  | S37°12'04"E |
| L3         | 25.30'  | S08°14'22"E |
| L4         | 32.68'  | S60°33'29"E |
| L5         | 8.95'   | S32°11'43"E |
| L6         | 4.37'   | S08°50'43"E |
| L7         | 7.52'   | S32°13'09"E |
| L8         | 4.36'   | S55°35'35"E |
| L9         | 6.61'   | S32°11'43"E |
| L10        | 10.88'  | S58°03'56"E |
| L11        | 46.72'  | S68°44'11"E |
| L12        | 68.86'  | S07°40'17"E |
| L13        | 29.36'  | S24°34'51"E |
| L14        | 16.45'  | S63°16'16"W |
| L15        | 78.00'  | S26°43'44"E |
| L16        | 21.76'  | N63°16'16"E |
| L17        | 14.66'  | S25°33'31"E |
| L18        | 7.68'   | S62°45'05"E |
| L19        | 105.50' | S25°27'03"E |
|            |         |             |
|            |         |             |
|            |         |             |

| CURVE TABLE |        |        |            |        |             |
|-------------|--------|--------|------------|--------|-------------|
| CURVE       | LENGTH | RADIUS | DELTA      | CHORD  | BEARING     |
| C1          | 101.99 | 415.00 | 14°04'50"  | 101.73 | S71°16'12"W |
| C2          | 93.09  | 445.00 | 11°59'10"  | 92.92  | N71°22'16"E |
| C3          | 104.65 | 24.00  | 249°50'08" | 39.36  | S17°44'12"E |
| C4          | 10.40  | 21.00  | 28°21'46"  | 10.29  | S46°22'36"E |
| C5          | 7.46   | 7.00   | 61°03'55"  | 7.11   | S38°12'14"E |



This Document Prepared By:  
Pyle & Dellinger, PL  
1655 N. Clyde Morris Blvd., Suite 1  
Daytona Beach, FL 32117

Return Recorded Easement to:  
Attention: Records Clerk  
City of Port Orange, Florida  
1000 City Center Circle  
Port Orange FL 32129

Portion of Parcel Number \_\_\_\_\_

*This Space Reserved for Recording Data*

### CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT is made this 2 day of August, 2006, by The Linen Group, Inc., a Florida for-profit corporation, mailing address: 134 Mangrove Estates Circle, New Smyrna Beach, FL 32168, ("Grantor"); and CITY OF PORT ORANGE, FLORIDA, a chartered municipal corporation located in Volusia County, Florida, whose mailing address is: 1000 City Center Circle, Port Orange, Florida, 32129 ("Grantee").

#### WITNESSETH:

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Volusia County, Florida, more particularly described in **Exhibit "A"** attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Property possesses environmental value of great importance to the Grantor and to the people of the City of Port Orange, Florida; and

WHEREAS, this Conservation Easement is intended to comply with the applicable requirements of the Port Orange Land Development Code.

NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth.

1. **Purpose.** The purpose of this easement to assure that the natural, scenic, or open space values of the Property will be retained forever in its existing natural condition and to prevent any use of the Property that will impair or interfere with the environmental value of the Property.

2. **Rights of Grantee.** To accomplish the purposes stated above, the following rights are conveyed to Grantee by this Easement:

- (a) To preserve and protect the environmental value of the Property;
- (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement;
- (c) To enter upon and inspect the Property in a reasonable manner and at

reasonable times to determine if the Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement; and

- (d) To proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, and to prevent the occurrence of any of the prohibited activities hereinafter set forth.

3. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited including, but not specifically limited to the following:

- (a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- (b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.
- (c) Removal or destruction of trees, shrubs, or other vegetation.
- (d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.
- (e) Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition.
- (f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

4. **Reserved Rights.** Grantor reserves and excepts unto itself and its agents, representatives, successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement.

5. **Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of the Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of the Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

6. **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from natural causes beyond Grantor's control, including, without limitation, fire, flood, storm and earth movement, or from any action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Recordation.** Grantor shall record this instrument in a timely fashion in the Official Records of Volusia County, Florida, and the Grantee may rerecord it any time as may be required to preserve its right in this Easement.

8. No Limitation. This Easement shall not be construed as a limitation on Grantee's enforcement authority. Grantor is estopped from asserting the invalidity of any code enforcement action based on the existence of this Easement.

9. Successors. The covenants, terms, conditions and restrictions of this Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Property.

10. The Parties acknowledge that Grantor has granted an easement over the same property to SJRWMD pursuant to permit number [REDACTED] issued by SJRWMD. Grantee hereunder takes the easement subject to the terms, conditions, and restrictions of the Easement to SJRWMD, and all rights of SJRWMD, and any person or entity having rights to the Easement Property as a result of said Easement..

IN WITNESS WHEREOF, Grantor has set its hand on the day and year first above written.

WITNESSES:

GRANTOR:

The Linen Group, Inc.  
A Florida For-Profit corporation

Holly A. Modrono  
Printed Name: Holly A. Modrono  
Patricia L. Bennett  
Printed Name: Patricia L. Bennett

By: Thomas M. Valley  
Printed Name: Thomas M. Valley  
Title: President

(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing Conservation Easement was sworn to and acknowledged before me this 2 day of August, 2006, by Thomas M. Valley, as President of The Linen Group, Inc., on behalf of the corporation. He is: ☐ personally known to me or ☒ have produced the following as identification: FL D.L. # [REDACTED]

Holly A. Modrono  
Notary Public, State of Florida at Large  
Printed Name, Stamped Seal, Commission and Term:



**EXHIBIT A**

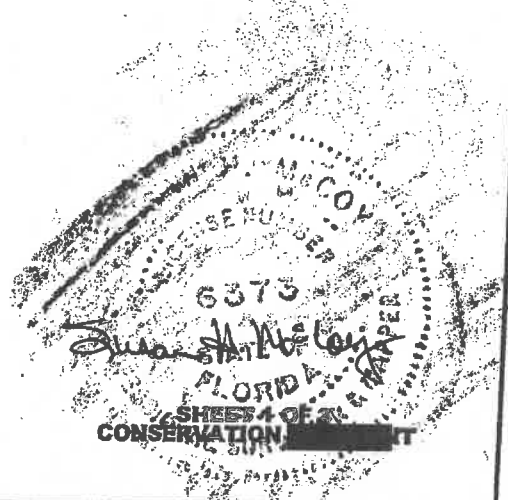
**LEGAL DESCRIPTION FOR ST JOHNS RIVER WATER MANAGEMENT DISTRICT CONSERVATION EASEMENT**

A PART OF LOT 1, BLOCK 24, DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187. PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF AFORESAID LOT 1, BLOCK 24, DUNLAWTON; THENCE N25°28'46"W A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N25°28'46"W A DISTANCE OF 557.29 FEET TO A NON TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 11°59'10", A CHORD OF 92.92 FEET, AND A CHORD BEARING OF N71°22'16"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 93.09 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 24.00 FEET, A CENTRAL ANGLE OF 249°50'08", A CHORD OF 39.36 FEET, AND A CHORD BEARING OF S17°44'12"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 104.65 FEET; THENCE S24°43'32"E A DISTANCE OF 36.21 FEET; THENCE S37°12'04"E A DISTANCE OF 31.71 FEET; THENCE S08°14'22"E A DISTANCE OF 25.30 FEET; THENCE S60°33'29"E A DISTANCE OF 32.68 FEET TO THE POINT OF CURVATURE A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 21.00 FEET, A CENTRAL ANGLE OF 28°21'46", A CHORD OF 10.29 FEET, AND A CHORD BEARING OF S46°22'36"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 10.40 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S32°11'43"E A DISTANCE OF 8.95 FEET; THENCE S08°50'43"E A DISTANCE OF 4.37 FEET; THENCE S32°13'09"E A DISTANCE OF 7.52 FEET; THENCE S55°35'35"E A DISTANCE OF 4.36 FEET; THENCE S32°11'43"E A DISTANCE OF 6.61 FEET; THENCE S58°03'56"E A DISTANCE OF 10.88 FEET; THENCE S68°44'11"E A DISTANCE OF 46.42 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 7.00 FEET, A CENTRAL ANGLE OF 61°03'55", A CHORD OF 7.11 FEET, AND A CHORD BEARING OF S38°12'14"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 7.46 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S07°40'17"E A DISTANCE OF 68.86 FEET; THENCE S24°34'51"E A DISTANCE OF 29.36 FEET; THENCE S63°16'16"W A DISTANCE OF 16.45 FEET; THENCE S26°43'44"E A DISTANCE OF 78.00 FEET; THENCE N63°16'16"E A DISTANCE OF 21.76 FEET; THENCE S25°33'31"E A DISTANCE OF 14.66 FEET; THENCE S62°45'05"E A DISTANCE OF 7.68 FEET; THENCE S25°27'03"E A DISTANCE OF 105.50 FEET; THENCE S64°46'30"W A DISTANCE OF 141.06 FEET TO THE POINT OF BEGINNING.

CONTAINING 66,583 SQUARE FEET = 1.53 ACRES MORE OR LESS

PREPARED BY:  
HARPSTER ENGINEERING & SURVEYING, INC.  
436 NORTH GRANDVIEW AVENUE  
DAYTONA BEACH, FL 32118  
PHONE [REDACTED]  
FAX 386-253-2502

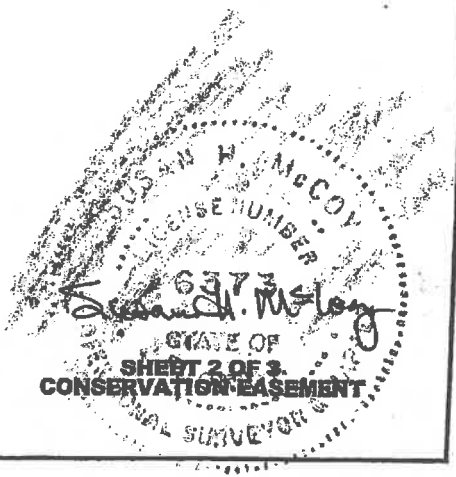


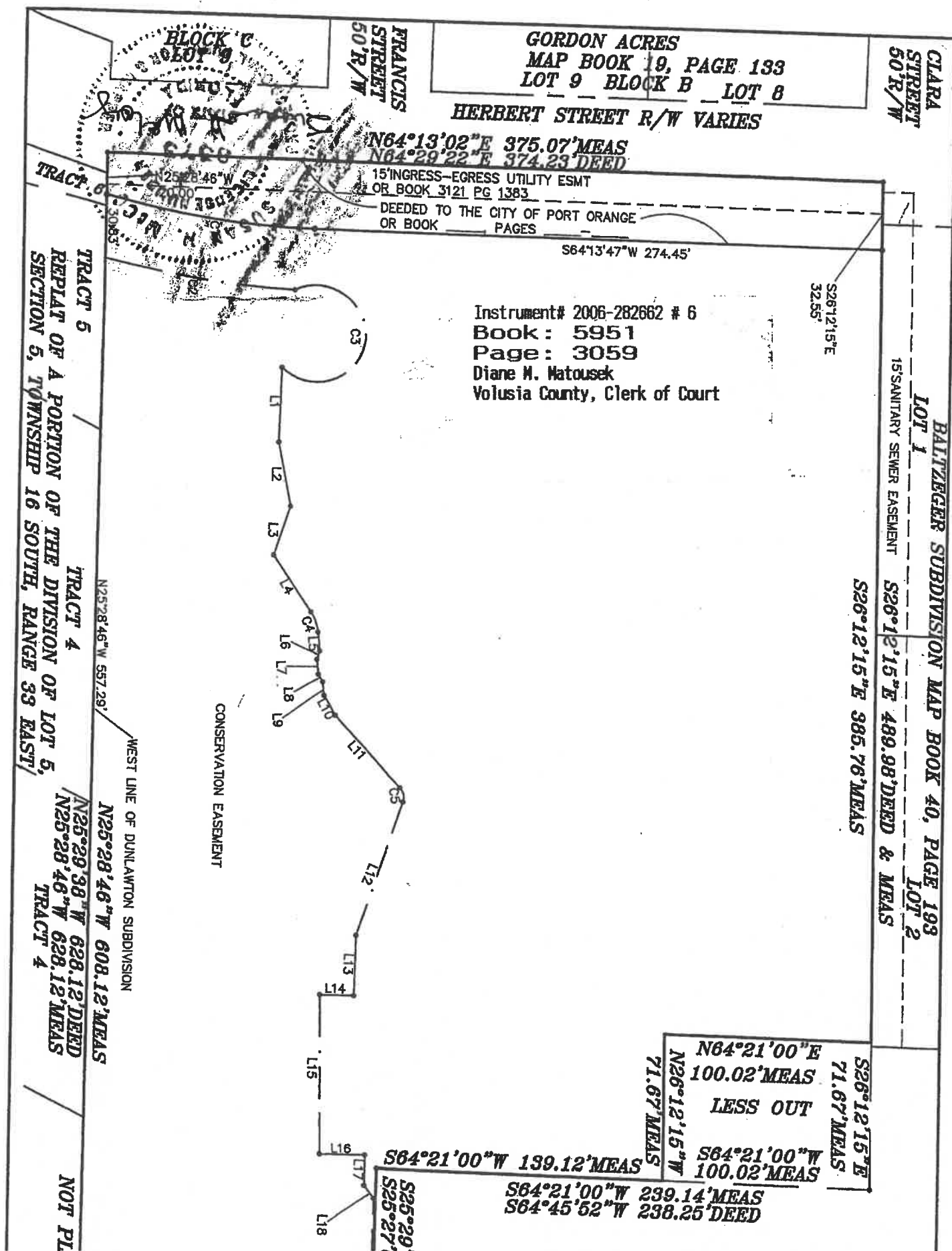


**EXHIBIT A**

| LINE TABLE |         |             |
|------------|---------|-------------|
| LINE       | LENGTH  | BEARING     |
| L1         | 36.21'  | S24°43'32"E |
| L2         | 31.71'  | S37°12'04"E |
| L3         | 25.30'  | S08°14'22"E |
| L4         | 32.68'  | ██████E     |
| L5         | 8.95'   | S32°11'43"E |
| L6         | 4.37'   | S08°50'43"E |
| L7         | 7.52'   | S32°13'09"E |
| L8         | 4.36'   | ██████E     |
| L9         | 6.61'   | S32°11'43"E |
| L10        | 10.88'  | ██████E     |
| L11        | 46.72'  | S68°44'11"E |
| L12        | 68.86'  | S07°40'17"E |
| L13        | 29.36'  | S24°34'51"E |
| L14        | 16.45'  | S63°16'16"W |
| L15        | 78.00'  | ██████E     |
| L16        | 21.76'  | N63°16'16"E |
| L17        | 14.66'  | S25°33'31"E |
| L18        | 7.68'   | S62°45'05"E |
| L19        | 105.50' | S25°27'03"E |
|            |         |             |
|            |         |             |

| CURVE TABLE |        |        |            |        |             |
|-------------|--------|--------|------------|--------|-------------|
| CURVE       | LENGTH | RADIUS | DELTA      | CHORD  | BEARING     |
| C1          | 101.99 | 415.00 | 14°04'50"  | 101.73 | S71°16'12"W |
| C2          | 93.09  | 445.00 | 11°59'10"  | 92.92  | N71°22'16"E |
| C3          | 104.65 | 24.00  | 249°50'08" | 39.36  | S17°44'12"E |
| C4          | 10.40  | 21.00  | 28°21'46"  | 10.29  | S46°22'36"E |
| C5          | 7.46   | 7.00   | 61°03'55"  | 7.11   | S38°12'14"E |





RECEIVED  
SEP 27 2021

CITY OF PORT ORANGE  
Community Development



Return recorded original to:  
Office of General Counsel  
St. Johns River Water Management District  
4049 Reid Street  
Palatka, FL 32177

CLERK: Please cross reference with  
OR Book 5907 Page 650

### RELEASE OF CONSERVATION EASEMENT

THIS RELEASE OF CONSERVATION EASEMENT is dated this 18<sup>th</sup> day of August, 2021, executed by the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, a public body existing under Chapter 373, Florida Statutes, whose address is 4049 Reid Street, Palatka, Florida 32177 ("District"), at the request of VILLA NOVA 8.0, LLC, whose address is 4017 Oriole Ave., Port Orange, Florida 32127 ("Owner").

### RECITALS:

**WHEREAS**, Owner's predecessor in interest, THE LINEN GROUP, INC., a Florida corporation, executed and granted to District a Conservation Easement, recorded on September 5, 2006 in Book 5907 at Page 650 in the Official Records of Volusia County, Florida ("Conservation Easement"), encumbering certain real property located in Volusia County, Florida, in accordance with District permit number [REDACTED] as more particularly described in the Conservation Easement.

**WHEREAS**, Owner, VILLA NOVA 8.0, LLC, subsequently acquired ownership of the real property encumbered by the Conservation Easement by virtue of that Warranty Deed recorded on April 12, 2021 in Book 8024 at Page 1788 in the Official Records of Volusia County, Florida, and requested the District release the Conservation Easement in accordance with its duly adopted rules; and

**WHEREAS**, section 704.06(4), Florida Statutes, provides that the holder of a conservation easement may release that conservation easement to the holder of the fee interest.

**NOW, THEREFORE**, District, in consideration of the payment of ten dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby specifically acknowledged, does hereby release and quit-claim unto the Owner, its successors and assigns, the real property encumbered by the Conservation Easement described in Exhibit "A" attached hereto.

**TO HAVE AND TO HOLD** the same, with the appurtenances, unto the Grantee, its successors and assigns forever, freed, exonerated, and discharged of and from the encumbrance and operation of the Conservation Easement and every part thereof.

**IN WITNESS WHEREOF**, the Grantor has hereunto set its hand and seal this

18<sup>th</sup> day of August, 2021.

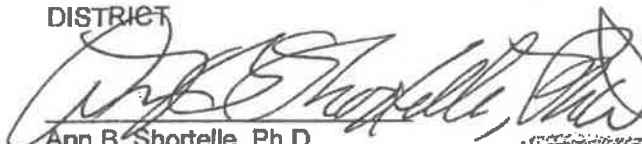
Attest:



Mary Ellen Winkler  
General Counsel  
St. Johns River Water  
Management District  
4049 Reid Street  
Palatka, FL 32177-2529

**DISTRICT:**

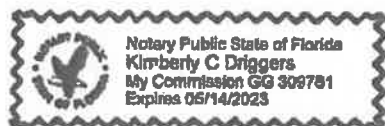
**ST. JOHNS RIVER WATER MANAGEMENT  
DISTRICT**



Ann B. Shortelle, Ph.D.  
Executive Director  
St. Johns River Water Management District  
4049 Reid Street  
Palatka, FL 32177-2529

STATE OF FLORIDA  
COUNTY OF PUTNAM

The foregoing instrument was acknowledged before by means of ☒ physical presence or ☐ online notarization this this 18<sup>th</sup> day of August, 2021, by Ann B. Shortelle, Ph.D., the Executive Director of the St. Johns River Water Management District, a public body existing under Chapter 373, Florida Statutes, on behalf of the District. She is personally known to me.



Kimberly C. Driggers  
Notary Public, State of Florida

My Commission Expires:

May 14, 2023

**EXHIBIT A****LEGAL DESCRIPTION FOR ST JOHNS RIVER WATER MANAGEMENT DISTRICT CONSERVATION EASEMENT**

A PART OF LOT 1, BLOCK 24, DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF AFORESAID LOT 1, BLOCK 24, DUNLAWTON; THENCE N [REDACTED] A DISTANCE OF 28.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N25°28'46"W A DISTANCE OF 557.29 FEET TO A NON TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 11°59'10", A CHORD OF 92.92 FEET, AND A CHORD BEARING OF N71°22'16"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 93.09 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 24.00 FEET, A CENTRAL ANGLE OF 249°50'08", A CHORD OF 39.38 FEET, AND A CHORD BEARING OF S17°44'12"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 104.65 FEET; THENCE S24°43'32"E A DISTANCE OF 38.21 FEET; THENCE S37°12'04"E A DISTANCE OF 31.71 FEET; THENCE S08°14'22"E A DISTANCE OF 25.30 FEET; THENCE S60°33'28"E A DISTANCE OF 32.68 FEET TO THE POINT OF CURVATURE A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 21.00 FEET, A CENTRAL ANGLE OF 28°21'48", A CHORD OF 10.29 FEET, AND A CHORD BEARING OF S46°22'38"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 10.40 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S32°11'43"E A DISTANCE OF 6.95 FEET; THENCE S08°50'43"E A DISTANCE OF 4.37 FEET; THENCE S32°15'09"E A DISTANCE OF 7.52 FEET; THENCE S55°35'35"E A DISTANCE OF 4.56 FEET; THENCE S32°11'43"E A DISTANCE OF 6.61 FEET; THENCE S58°03'56"E A DISTANCE OF 10.88 FEET; THENCE S68°44'11"E A DISTANCE OF 48.42 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 7.00 FEET, A CENTRAL ANGLE OF 81°03'55", A CHORD OF 7.41 FEET, AND A CHORD BEARING OF S38°12'14"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 7.46 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S07°40'17"E A DISTANCE OF 68.86 FEET; THENCE S24°34'51"E A DISTANCE OF 28.38 FEET; THENCE S63°16'16"W A DISTANCE OF 16.45 FEET; THENCE S26°43'44"E A DISTANCE OF 78.00 FEET; THENCE N63°16'16"E A DISTANCE OF 21.76 FEET; THENCE S25°33'31"E A DISTANCE OF 14.66 FEET; THENCE S82°45'05"E A DISTANCE OF 7.68 FEET; THENCE [REDACTED] A DISTANCE OF 105.50 FEET; THENCE S84°46'30"W A DISTANCE OF 141.06 FEET TO THE POINT OF BEGINNING.

CONTAINING 66,583 SQUARE FEET = 1.53 ACRES MORE OR LESS

PREPARED BY:  
HARTPETER ENGINEERING & SURVEYING, INC.  
436 NORTH GRANDVIEW AVENUE  
DAYTONA BEACH, FL 32118  
PHONE 386-253-3241  
FAX [REDACTED]

SHEET 1 OF 3  
CONSERVATION EASEMENT

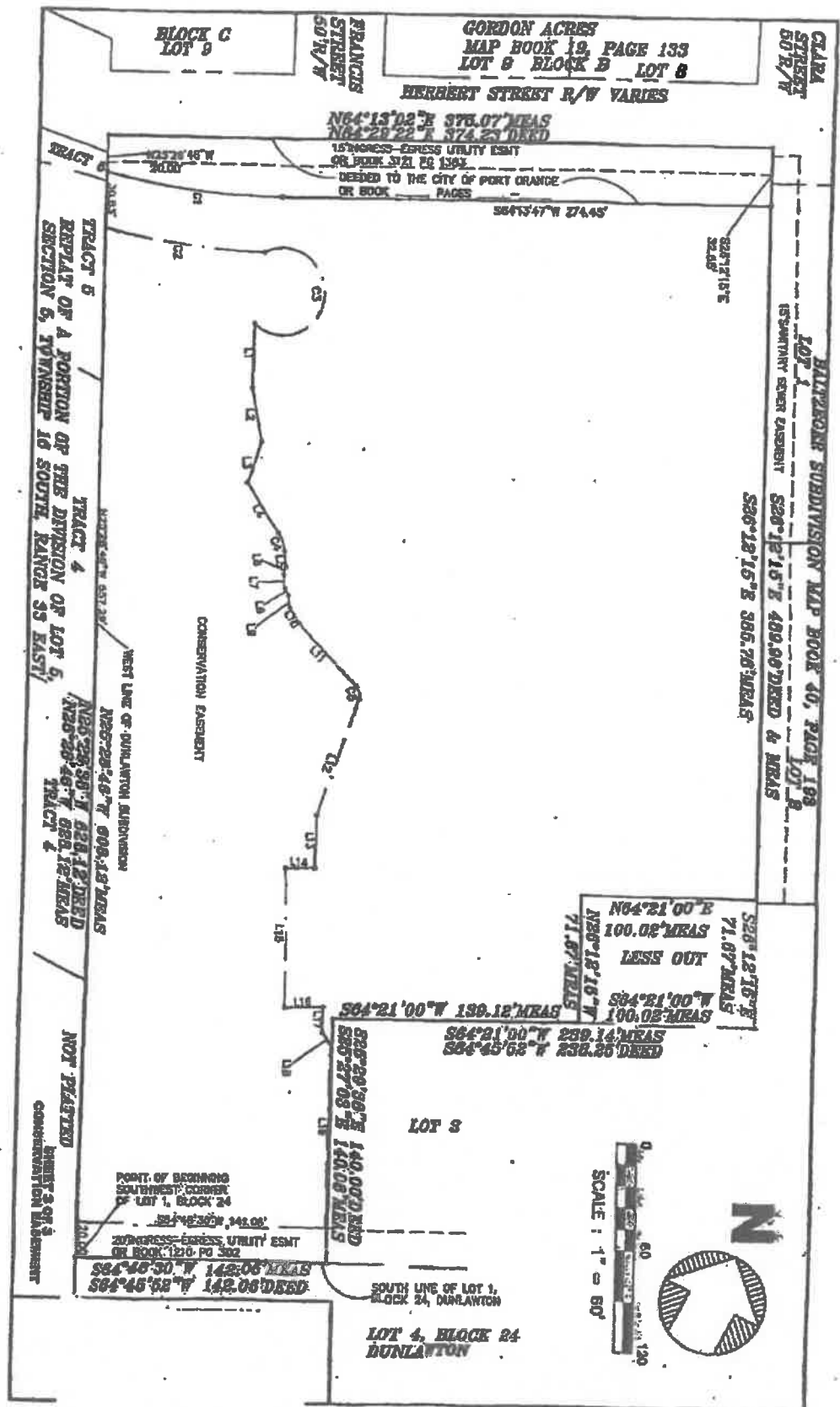
**EXHIBIT A**

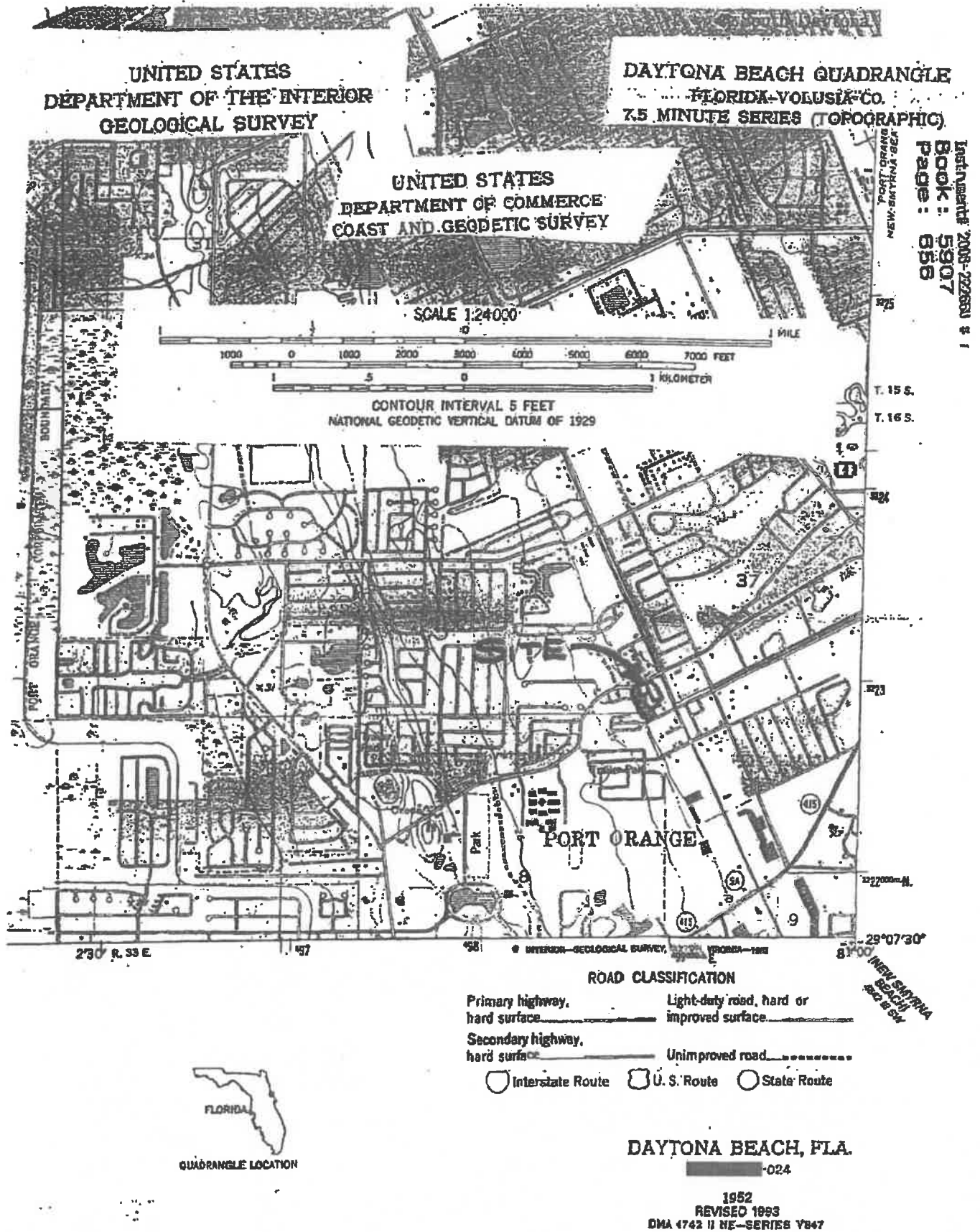
| LINE TABLE |         |              |
|------------|---------|--------------|
| LINE       | LENGTH  | BEARING      |
| L1         | 36.21'  | S24°43'32"E  |
| L2         | 31.71'  | S37°12'04"E  |
| L3         | 25.30'  | S08°4'22"E   |
| L4         | 32.68'  | S60°33'28"E  |
| L5         | 8.95'   | S32°11'43"E  |
| L6         | 4.37'   | S08°50'43"E  |
| L7         | 7.52'   | S32°13'08"E  |
| L8         | 4.36'   | S55°35'35"E  |
| L9         | 6.61'   | S32°11'43"E  |
| L10        | 10.88'  | S58°03'56"E  |
| L11        | 48.72'  | S68°44'11"E  |
| L12        | 58.86'  | S07°40'47"E  |
| L13        | 29.36'  | [REDACTED] E |
| L14        | 16.45'  | S63°16'15"W  |
| L15        | 78.00'  | S26°43'44"E  |
| L16        | 21.76'  | N63°16'16"E  |
| L17        | 14.66'  | S25°33'31"E  |
| L18        | 7.68'   | S62°45'05"E  |
| L19        | 105.50' | S25°27'03"E  |
|            |         |              |
|            |         |              |
|            |         |              |

| CURVE TABLE |        |        |            |        |             |
|-------------|--------|--------|------------|--------|-------------|
| CURVE       | LENGTH | RADIUS | DELTA      | CHORD  | BEARING     |
| C1          | 101.99 | 415.00 | 14°04'50"  | 101.73 | S71°16'12"W |
| C2          | 93.09  | 445.00 | 11°59'10"  | 92.82  | N71°22'16"E |
| C3          | 104.65 | 24.00  | 249°50'08" | 39.36  | S17°44'12"E |
| C4          | 10.40  | 21.00  | 28°21'46"  | 10.29  | S46°22'36"E |
| C5          | 7.46   | 7.00   | 61°03'55"  | 7.11   | S38°12'14"E |

**SHEET 2 OF 3**  
**CONSERVATION EASEMENT**







| REV | DATE | DESCRIPTION |
|-----|------|-------------|
| 1   | ---  | ----        |
| 2   | ---  | ----        |
| 3   | ---  | ----        |
| 4   | ---  | ----        |
| 5   | ---  | ----        |
| 6   | ---  | ----        |
| 7   | ---  | ----        |
| 8   | ---  | ----        |
| 9   | ---  | ----        |
| 10  | ---  | ----        |

# BARDEZ

5048 POINTE EMERALD LANE; BOCA RATON, FL 33486  
(0) 561-465-5949 | (e) nbarnett@bardezco.com

## PROJECT DESCRIPTION

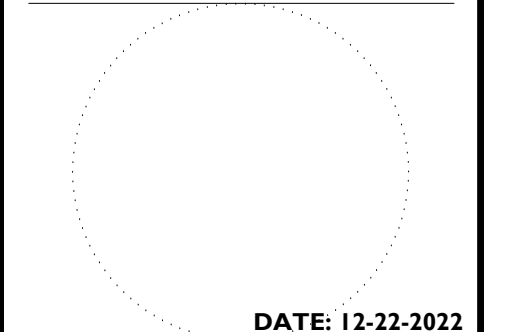
# VILLA NOVA

## MULTIFAMILY RESIDENTIAL DEVELOPMENT

**ADDRESS: 1040 HERBERT STREET; PORT ORANGE, FL 32129**

PREPARED FOR: VILLA NOVA 8.0, LLC

**CERTIFICATION**



**DATE: 12-22-2022**

**NOEL BARNETT**  
PROFESSIONAL ENGINEER  
FL LICENSE NO. 72006  
FL BUSINESS C.A. NO.: 32223

**SHEET TITLE**

**PROPOSED  
EASEMENT  
EXHIBIT**

**SHEET ID**

## ESMT







Villa Nova Townhomes  
1040 Herbert St.

Tree Preservation Areas



# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/21/2023

---

**SUBJECT:** (F14) Release of a Temporary Drainage, Utilities, Sidewalks, Maintenance and Ingress/Egress/Access Easement at 1040 Herbert Street

**DEPARTMENT:** Community Development

**GOAL:** 4 - Economic Development

---

**RECOMMENDED MOTION:** Move to approve the release of the Temporary Drainage, Utilities, Sidewalks, Maintenance and Ingress/Egress/Access Easements at 1040 Herbert Street and authorize the Mayor and City Clerk to execute all necessary documents.

---

**SUMMARY:** The Community Development Department has received a request from the property owner of 1040 Herbert Street to release a Temporary Easement for Drainage and Utilities and Sidewalks and Maintenance and Ingress, Egress, and Access Easement to cover the entire 7.3-acre property.

---

In August of 2006, as part of the site plan review for a residential project at 1040 Herbert Street, the City required the former property owner to provide a temporary easement that covers the entire 7.3-acre property. However, the 2006 project did not move forward, and the temporary easement has remained on the undeveloped property.

The current property owner submitted a site plan application to the City to develop a townhome project. The site plan for the project is currently being reviewed by city staff, and prior to the approval of the site plan, the temporary easement needs to be released. As part of the site plan for the project, all required permanent easements have been provided over all necessary stormwater and utility infrastructure as required by the Land Development Code.

The Villa Nova Townhome project site currently has a Future Land Use designation of Urban High-Density Residential (8-16 units/acre) and is currently zoned R-3H Multi-Family Residential (up to 16 units/acre), which allows for the proposed residential development and density. The Villa Nova Townhome development consists of 77 units on 7.3 acres, with a density of 10.5 units/acre. The site plan for the proposed project has been reviewed at the staff level and may be approved once all Land Development Code requirements have been met.





PRESENTER: Tim Burman

#### ATTACHMENTS:

|    |                                          |                                              |
|----|------------------------------------------|----------------------------------------------|
| 1. | Release of Easement (Blanket) Villa Nova | Release of Easement (Blanket) Villa Nova.pdf |
| 2. | Recorded Temporary Easement              | Recorded Temporary Easement.pdf              |
| 3. | Villa Nova Site Plan 12-28-22            | Villa Nova Site Plan 12-28-22 .pdf           |
| 4. | ESMT - Easement Exhibit                  | ESMT - Easement Exhibit.pdf                  |

Robin Fenwick  
Tim Burman  
Shannon Balmer  
Wayne Clark  
Tracee Cody

Created/Initiated - 3/2/2023  
Approved - 3/2/2023  
Approved - 3/9/2023  
Approved - 3/14/2023  
Final Approval - 3/14/2023

**Portion of Parcel No. 6337-01-24-0011**

**Cross Reference to Instrument No. 2006-282661**  
**Official Records Book 5951 Page 3049**

**RELEASE OF TEMPORARY EASEMENT FOR DRAINAGE AND**  
**UTILITIES AND SIDEWALKS AND MAINTENANCE THEREOF**  
**AND INGRESS, EGRESS, AND ACCESS THERETO**

THIS Release of Temporary Easement for Drainage and Utilities and Sidewalks and Maintenance thereof and Ingress, Egress, and Access thereto is made this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation, mailing address: 1000 City Center Circle, Port Orange FL 32129, hereinafter “City,” and **Villa Nova 8.0, LLC**, a Florida limited liability company, with a mailing address of 3817 S. Nova Road Ste 104-163, Port Orange, FL, hereinafter “Villa Nova”.

W I T N E S S E T H:

WHEREAS, the Villa Nova is the fee simple owner of the property where the Easement is located, said property being legally in **Exhibit “A”**, attached hereto and made a part hereof by reference (hereinafter “Property”); and

WHEREAS, on August 2, 2006, the Linen Group, Inc., predecessor-in-interest to Villa Nova, granted to the City a *Temporary Easement for Drainage and Utilities and Sidewalks and Maintenance thereof and Ingress, Egress, and Access thereto* that document having been filed of record on November 13, 2006, in Official Records Book 5951, Pages 3049, et seq., Public Records of Volusia County, Florida (hereinafter referred to as the “Easement”); and

WHEREAS, the Easement is graphically depicted and legally described in Official Records Book 5951, Pages 3049 of the Public Records Volusia County, Florida; and

WHEREAS, the Linen Group, Inc. granted the Easement to the City in a 2006 site plan submission to develop the Property (“2006 Site Plan”); and

WHEREAS, the 2006 Site Plan development originally contemplated for the Property was abandoned several years ago; and

WHEREAS, Villa Nova, successor-in-interest to Linen Group, Inc., has requested the City release the Easement because of new development plans that will cause required and necessary easements to be established with the current site plan development of the Property or as may otherwise be required; and

WHEREAS, the specific area of the Easement being released is legally described and graphically depicted on **Exhibit “B”** attached hereto, and made a part hereof; and

WHEREAS, the City, as the owner of the Easement, has determined the release of the easement, on the attached **Exhibit "B"** will not adversely impact the construction of utilities, drainage, sidewalks, maintenance, and access thereto on the Property as any future development will be required to comply with construction and easement obligations related to utilities, drainage, sidewalks, maintenance, and access thereto in accordance with the City of Port Orange Land Development Code.

NOW, THEREFORE, the City of Port Orange, hereby releases to Villa Nova, its successors, and assigns forever, the Easement more particularly described and graphically depicted on attached **Exhibit "B."**

IN WITNESS WHEREOF, the City, has executed this Release of Temporary Easement for Drainage and Utilities and Sidewalks and Maintenance thereof and Ingress, Egress, and Access thereto by and through its duly authorized representatives on the day and year first above written.

Signed in the presence of:

**CITY OF PORT ORANGE, FLORIDA**  
a Florida chartered municipal corporation

Witness: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Witness: \_\_\_\_\_

Printed Name: \_\_\_\_\_

By: \_\_\_\_\_

Donald O. Burnette, Mayor

Attest: \_\_\_\_\_

Robin L. Fenwick, MMC, City Clerk

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing **Release of Temporary Easement for Drainage and Utilities and Sidewalks and Maintenance thereof and Ingress, Egress, and Access thereto** was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by Donald O. Burnette, Mayor and Robin L. Fenwick, City Clerk, both on behalf of the City of Port Orange, who acknowledged having full authority to execute the document, for the purposes stated therein. They are personally known to me.

\_\_\_\_\_  
Signature of Notary Public, State of Florida  
Printed name, Commission, Seal, and Term Expiration:

## EXHIBIT A

TRACT 6, TRACT 5 AND THAT PART OF TRACT 4 OF THE REPLAT OF A PORTION OF THE DIVISION OF LOT 5, SECTION 5, TOWNSHIP 16 SOUTH, RANGE 33 EAST, AS RECORDED IN MAP BOOK 34, PAGE 14, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID PARCEL BEING PARTICULARLY DESCRIBED AS FOLLOWS:

AS THE TRUE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF SOUTHERLY RIGHT-OF-WAY LINE OF WEST HERBERT STREET, A 60 FOOT RIGHT-OF-WAY, AS REPLATTED; AND THE EAST LINE OF SAID SECTION 5, THENCE RUN SOUTH 25°29'38" EAST A DISTANCE OF 307.79 FEET; THENCE SOUTH 89°48'05" WEST A DISTANCE OF 270.00 FEET; THENCE SOUTH 00" EAST 40.00 FEET; THENCE SOUTH 89°48'05" WEST 328.09 FEET; THENCE SOUTH 00° 11'55" EAST 98.00 FEET; THENCE SOUTH 89°48'05" WEST 75.00 FEET; THENCE NORTH 00" WEST 236.00 FEET TO THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST HERBERT STREET, A 60 FOOT RIGHT-OF-WAY AS PLATTED IN MAP BOOK 34, PAGE 14, THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY ON AN ARC TO THE RIGHT HAVING A CENTRAL ANGLE OF 06°38'56", A CHORD BEARING OF NORTH 51°40'32" EAST WITH A RADIUS OF 399.63 FEET AND A LENGTH OF 46.38 FEET; THENCE CONTINUING ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST HERBERT STREET ON AN ARC CURVING TO THE RIGHT WITH A COMMON TANGENT TO THE PREVIOUS CURVE HAVING A CENTRAL ANGLE OF 05°48'56" AND A RADIUS OF 944.14 FEET AND A LENGTH OF 95.83 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 60°48'55" EAST A DISTANCE OF 106.23 FEET TO A POINT OF CURVATURE TO THE RIGHT; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ON AN ARC HAVING A CENTRAL ANGLE OF 26°14'40" AND A RADIUS OF 284.07 FEET AND A LENGTH OF 130.12 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 87°03'35" EAST 132.89 FEET TO A POINT OF CURVATURE TO THE LEFT; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ON ARC HAVING A CENTRAL ANGLE OF 06°41'02" AND A RADIUS OF 639.51 FEET AND A LENGTH OF 74.60 FEET TO THE POINT OF BEGINNING.

NOVA OAKS - A CONDOMINIUM  
LEGAL DESCRIPTION FOR DRAINAGE, MAINTENANCE, ACCESS, UTILITY  
AND EMERGENCY INGRESS/EGRESS EASEMENT

A PART OF LOT 1, BLOCK 24, DUNLAWTON, AS RECORDED IN DEED BOOK "M", PAGE 187. PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE, COMMENCE AT THE SOUTHWEST CORNER OF AFORESAID LOT 1, BLOCK 24, DUNLAWTON; THENCE N25°28'46"W A DISTANCE OF 577.29 FEET TO THE POINT OF BEGINNING AND TO A NON TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 11°59'10", A CHORD OF 92.92 FEET, AND A CHORD BEARING OF N71°22'16"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 93.09 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 24.00 FEET, A CENTRAL ANGLE OF 249°50'08", A CHORD OF 39.36 FEET, AND A CHORD BEARING OF S17°44'12"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 104.65 FEET; THENCE S24°43'32"E A DISTANCE OF 36.21 FEET; THENCE S37°12'04"E A DISTANCE OF 31.71 FEET; THENCE S08°14'22"E A DISTANCE OF 25.30 FEET; THENCE S60°33'29"E A DISTANCE OF 32.68 FEET TO THE POINT OF CURVATURE A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 21.00 FEET, A CENTRAL ANGLE OF 28°21'46", A CHORD OF 10.29 FEET, AND A CHORD BEARING OF S46°22'36"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 10.40 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S32°11'43"E A DISTANCE OF 8.95 FEET; THENCE S08°50'43"E A DISTANCE OF 4.37 FEET; THENCE S32°13'09"E A DISTANCE OF 7.52 FEET; THENCE S55°35'35"E A DISTANCE OF 14.66 FEET; THENCE S62°45'05"E A DISTANCE OF 9.33 FEET; THENCE S58°03'56"E A DISTANCE OF 10.88 FEET; THENCE S68°44'11"E A DISTANCE OF 46.42 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 7.00 FEET, A CENTRAL ANGLE OF 61°03'55", A CHORD OF 7.11 FEET, AND A CHORD BEARING OF S38°12'14"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 7.46 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S07°40'17"E A DISTANCE OF 68.86 FEET; THENCE S24°34'51"E A DISTANCE OF 29.36 FEET; THENCE S63°16'16"W A DISTANCE OF 16.45 FEET; THENCE S26°43'44"E A DISTANCE OF 78.00 FEET; THENCE N63°16'16"E A DISTANCE OF 21.76 FEET; THENCE S25°33'31"E A DISTANCE OF 14.66 FEET; THENCE S62°45'05"E A DISTANCE OF 9.33 FEET; THENCE N25°27'03"W A DISTANCE OF 15.90 FEET; THENCE N64°21'00"E A DISTANCE OF 139.12 FEET; THENCE N26°12'15"W A DISTANCE OF 71.67 FEET; THENCE S52°16'27"W A DISTANCE OF 76.12 FEET; THENCE S75°32'23"W A DISTANCE OF 62.00 FEET; THENCE N75°32'23"E A DISTANCE OF 62.00 FEET; THENCE S14°27'37"E A DISTANCE OF 156.67 FEET; THENCE N52°16'27"E A DISTANCE OF 76.12 FEET; THENCE N64°21'00"E A DISTANCE OF 100.02 FEET; THENCE N66°55'49"W A DISTANCE OF 42.05 FEET; THENCE S64°31'05"W A DISTANCE OF 62.00 FEET; THENCE N25°28'55"W A DISTANCE OF 147.33 FEET; THENCE S66°55'49"E A DISTANCE OF 42.05 FEET; THENCE N26°12'15"W A DISTANCE OF 375.76 FEET; THENCE S10°34'33"W A DISTANCE OF 42.72 FEET; THENCE S25°28'55"E A DISTANCE OF 147.33 FEET; THENCE S64°31'05"W A DISTANCE OF 62.00 FEET; THENCE N64°31'05"E A DISTANCE OF 62.00 FEET; THENCE N10°34'33"E A DISTANCE OF 42.72 FEET; THENCE S64°13'47"W A DISTANCE OF 274.53 FEET; THENCE S78°20'02"E A DISTANCE OF 86.94 FEET; THENCE N64°31'05"E A DISTANCE OF 62.00 FEET; THENCE S25°28'55"E A DISTANCE OF 156.67 FEET; THENCE N25°28'55"W A DISTANCE OF 62.00 FEET; THENCE N25°28'55"W A DISTANCE OF 156.67 FEET; THENCE S64°31'05"W A DISTANCE OF 62.00 FEET; THENCE N78°20'02"W A DISTANCE OF 86.94 FEET TO A NON TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 415.00 FEET, A CENTRAL ANGLE OF 14°04'50", A CHORD OF 101.73 FEET AND A CHORD BEARING OF S71°16'12"W, THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 101.99 FEET; THENCE S25°28'46"E A DISTANCE OF 30.83 FEET TO THE POINT OF BEGINNING.

I HEREBY CERTIFY THAT THIS SKETCH OF THE SUBJECT PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, AS SURVEYED IN THE FIELD UNDER MY SUPERVISION, THE DATES SHOWN HEREON. I FURTHER CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN FLORIDA ADMINISTRATIVE CODE CHAPTER 61G12, GOVERNED BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS, PURSUANT TO FLORIDA STATUTES SECTIONS 472.027. SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

5373

FRED M. HARPSTER, P.S.M., #4384/#1127

M. USA, ABRETT, P.S.M., #445 SUSAN, H. MCDONALD, P.S.M., #5333 UNLESS EMBOSSED WITH THE ORIGINAL RAISED SEAL OF A LICENSED SURVEYOR AND MAPPER, THIS SKETCH, PLAN, OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.



- SURVEYOR'S NOTES:
1. DIMENSIONS SHOWN IN FEET AND DECIMAL THEREOF.
  2. SUBJECT TO RESTRICTIONS, RESERVATIONS, LIMITATIONS, EASEMENTS AND RIGHTS OF WAY, IF ANY, APPEARING OF RECORD.
  3. NO UNDERGROUND AND/OR AERIAL UTILITIES ARE LOCATED EXCEPT AS SHOWN.
  4. LEGAL DESCRIPTION PREPARED BY HARPSTER ENGINEERING & SURVEYING, INC.
  5. TAX PARCEL # 6337-01-24-0011
  6. BEARING STRUCTURE PER DEED.
  - BEARING BASELINE IS THE WEST LINE OF LOTS 1 AND 2, BALTZEGGER SUBDIVISION.
  7. FLOOD ZONE "X" (SHADED)  
COMMUNITY NAME CITY OF PORT ORANGE  
COMMUNITY NUMBER 120313  
MAP NUMBER 12127C0369 G  
DATED 4-15-02
- FLOOD ZONE "X" (SHADED) = AREAS OF 500 YEAR FLOOD; AREAS OF 100 YEAR FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 100 YEAR FLOOD.

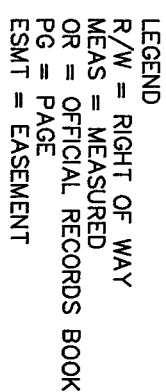
SHEET 2 OF 3



**HARPSTER ENGINEERING & SURVEYING, INC.**  
REGISTERED IN:  
PROFESSIONAL LAND SURVEYORS  
LICENSED BUSINESS #6351  
439 NORTH GRANDVIEW AVENUE  
DAYTONA BEACH, FL 32118  
(386) 253-5441  
Copyright © 2008 Harpster Engineering & Surveying, Inc.

| LINE TABLE |        |             |  |
|------------|--------|-------------|--|
| LINE       | LENGTH | BEARING     |  |
| L1         | 36.21' | S24°43'32"E |  |
| L2         | 31.71' | S37°12'04"E |  |
| L3         | 25.30' | S08°14'22"E |  |
| L4         | 32.68' | S60°33'29"E |  |
| L5         | 8.95'  | S32°11'43"E |  |
| L6         | 4.37'  | S08°50'43"E |  |
| L7         | 7.52'  | S32°13'09"E |  |
| L8         | 4.36'  | S55°35'35"E |  |
| L9         | 6.61'  | S32°11'43"E |  |
| L10        | 10.88' | S58°03'56"E |  |
| L11        | 46.72' | S68°44'11"E |  |
| L12        | 68.86' | S07°40'17"E |  |
| L13        | 29.36' | S24°34'51"E |  |
| L14        | 16.45' | S63°16'16"W |  |
| L15        | 78.00' | S26°43'44"E |  |
| L16        | 21.76' | N63°16'16"E |  |
| L17        | 14.66' | S25°33'31"E |  |
| L18        | 9.33'  | S62°45'05"E |  |

| CURVE TABLE |        |        |            |        |             |
|-------------|--------|--------|------------|--------|-------------|
| CURVE       | LENGTH | RADIUS | DELTA      | CHORD  | BEARING     |
| C1          | 101.99 | 415.00 | 14°04'50"  | 101.73 | S71°16'12"W |
| C2          | 93.09  | 445.00 | 11°59'10"  | 92.92  | N71°22'16"E |
| C3          | 104.65 | 24.00  | 249°50'08" | 39.36  | S17°44'12"E |
| C4          | 10.40  | 21.00  | 28°21'46"  | 10.29  | S46°22'36"E |
| C5          | 7.46   | 7.00   | 61°03'55"  | 7.11   | S38°12'14"E |



**ENGINEERING & SURVEYING**  
PROFESSIONAL LAND SURVEYORS  
LICENSED BUSINESS #6351  
436 NORTH GRANDVIEW AVENUE  
DAYTONA BEACH, FL 32118  
(386) 253-3841

Copyright © 2006 Harpeter Engineering & Surveying, Inc.

RETURN RECORDED DOCUMENT TO:

Pyle & Dellinger, PL  
1655 N. Clyde Morris Blvd., Suite 1  
Daytona Beach, FL 32117

**TEMPORARY EASEMENT  
FOR  
DRAINAGE AND UTILITIES  
AND SIDEWALKS  
AND MAINTENANCE THEREOF  
AND INGRESS, EGRESS AND ACCESS THERETO**

THIS EASEMENT, made this 2 day of August, 2006, by and between **THE LINEN GROUP, INC.** a Florida corporation, ("GRANTOR") and **CITY OF PORT ORANGE**, and Grantee's successors and assigns ("GRANTEE").

WITNESSETH

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, the Grantor hereby grants and conveys unto the Grantee and its successors and assigns, a **TEMPORARY EASEMENT FOR DRAINAGE AND UTILITIES AND SIDEWALKS AND MAINTENANCE THEREOF AND INGRESS, EGRESS AND ACCESS THERETO** ("Easement") along, under, over and across real property located in Volusia County, Florida, and being more particularly described and graphically depicted on **Exhibit "A"** attached hereto and made a part hereof by reference ("Easement Premises").

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the parties agree as follows:

- A. **Grant of Easement.** Grantor hereby grants to Grantee and its successors and assigns the Easement over the Easement Premises. The Easement granted herein shall grant to Grantee and its successors and assigns the right to enter upon the Easement Premises for the purpose of construction, inspection, repair and maintenance purposes and public uses thereon, with all such fills, cuts, drains, pipelines, ditches, trenches and other incidents which said Grantee may deem necessary or convenient in connection with conveying storm water through, under, over, across and into the storm water retention facilities, the right to construct and install, repair and otherwise maintain storm water, drainage, and utilities systems which may include potable water and reclaimed water, sanitary sewer mains, lines or pipes, together with the right to excavate and refill ditches and trenches for the placement of such lines or pipes and also for connection of such pipes, lines and facilities to adjacent permanent utilities systems. This temporary easement includes the right of access, ingress and egress over the Easement Premises and adjoining lands of the Grantor by government services and emergency vehicles for the purposes granted herein.

- B. Termination of Easement. It is expressly understood and agreed that this Temporary Easement shall expire and be of no further effect as of the time a Declaration of Condominium, with a plot plan as an exhibit thereto, if any, is recorded as to the underlying property which accurately depicts, identifies and reserves in favor of the herein named Grantee a permanent easement over the storm water and utilities systems contemplated hereby. This Instrument is described as "temporary" in anticipation of the recording of the Declaration of Condominium and Plot Plan; however, it is intended by the parties to be permanent if the underlying property is not dedicated to condominium ownership through recording of the Declaration of Condominium.

TO HAVE AND TO HOLD the same unto said Grantee and Grantee's successors and assigns.

IN WITNESS WHEREOF, the Grantor has caused the foregoing Easement to be executed on the day and year first above written.

Signed in the presence of:

GRANTOR:  
THE LINEN GROUP, INC.

Holly A. Modrono  
Name: Holly A. Modrono

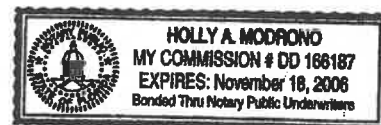
By: Thomas M. Valley  
Thomas M. Valley, President

Patricia L. Bennett  
Name: Patricia L. Bennett

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 2 day of August, 2006, by Thomas M. Valley, President of The Linen Group, Inc. the Grantor named in the foregoing Easement, who hereby acknowledges that Grantor has full power and authority to convey the Easement Property and that he ☐ is personally known to me, or ☒ has produced FL D.L.#                     , as identification.

Holly A. Modrono  
Notary Public



Instrument# 2006-282861 # 3  
Book : 5951  
Page : 3051

**NOVA OAKS - A CONDOMINIUM  
LEGAL DESCRIPTION FOR DRAINAGE, MAINTENANCE, ACCESS, UTILITY  
AND EMERGENCY INGRESS/EGRESS EASEMENT**

A PART OF LOT 1, BLOCK 24, DUNLAWTON, AS RECORDED IN DEED BOOK "N", PAGE 187, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE, COMMENCE AT THE SOUTHWEST CORNER OF AFORESAID LOT 1, BLOCK 24, DUNLAWTON; THENCE N25°28'46"W A DISTANCE OF 577.29 FEET TO THE POINT OF BEGINNING AND TO A NON TANGENT CURVE, CONCAVE NORTHERLY HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 11°59'10", A CHORD OF 92.92 FEET, AND A CHORD BEARING OF N71°22'16"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 93.09 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 24.00 FEET, A CENTRAL ANGLE OF 249°50'08", A CHORD OF 39.36 FEET, AND A CHORD BEARING OF S17°44'12"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 104.65 FEET; THENCE S24°43'32"E A DISTANCE OF 36.21 FEET; THENCE S37°12'04"E A DISTANCE OF 31.71 FEET; THENCE S08°14'22"E A DISTANCE OF 25.30 FEET; THENCE S60°33'29"E A DISTANCE OF 32.68 FEET TO THE POINT OF CURVATURE A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 21.00 FEET, A CENTRAL ANGLE OF 28°21'46", A CHORD OF 10.29 FEET, AND A CHORD BEARING OF S46°22'38"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 10.40 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S32°11'43"E A DISTANCE OF 8.95 FEET; THENCE S08°30'43"E A DISTANCE OF 4.37 FEET; THENCE S32°13'09"E A DISTANCE OF 7.52 FEET; THENCE S55°35'35"E A DISTANCE OF 4.36 FEET; THENCE S32°11'43"E A DISTANCE OF 6.61 FEET; THENCE S58°03'56"E A DISTANCE OF 10.88 FEET; THENCE S68°44'11"E A DISTANCE OF 46.42 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 7.00 FEET, A CENTRAL ANGLE OF 61°03'55", A CHORD OF 7.11 FEET, AND A CHORD BEARING OF S38°12'14"E; THENCE ALONG SAID CURVE FOR AN ARC LENGTH OF 7.46 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S07°40'17"E A DISTANCE OF 68.86 FEET; THENCE S24°34'51"E A DISTANCE OF 28.36 FEET; THENCE S63°16'18"W A DISTANCE OF 16.45 FEET; THENCE S28°43'44"E A DISTANCE OF 78.00 FEET; THENCE N63°16'16"E A DISTANCE OF 21.76 FEET; THENCE S25°33'31"E A DISTANCE OF 14.66 FEET; THENCE S62°45'05"E A DISTANCE OF 9.33 FEET; THENCE N25°27'03"W A DISTANCE OF 15.90 FEET; THENCE N64°21'00"E A DISTANCE OF 139.12 FEET; THENCE N26°12'15"W A DISTANCE OF 71.67 FEET; THENCE S52°16'27"W A DISTANCE OF 76.12 FEET; THENCE S75°32'23"W A DISTANCE OF 62.00 FEET; THENCE N14°27'37"W A DISTANCE OF 156.67 FEET; THENCE N75°32'23"E A DISTANCE OF 62.00 FEET; THENCE S14°27'37"E A DISTANCE OF 156.67 FEET; THENCE N52°16'27"E A DISTANCE OF 62.00 FEET; THENCE N64°21'00"E A DISTANCE OF 100.02 FEET; THENCE N68°55'49"W A DISTANCE OF 42.05 FEET; THENCE S64°31'05"W A DISTANCE OF 62.00 FEET; THENCE N25°28'55"W A DISTANCE OF 62.00 FEET; THENCE N25°28'55"E A DISTANCE OF 147.33 FEET; THENCE S66°55'49"E A DISTANCE OF 42.05 FEET; THENCE N26°12'15"W A DISTANCE OF 375.76 FEET; THENCE S10°34'33"W A DISTANCE OF 42.72 FEET; THENCE S25°28'55"E A DISTANCE OF 147.33 FEET; THENCE S64°31'05"W A DISTANCE OF 62.00 FEET; THENCE N25°28'55"W A DISTANCE OF 147.33 FEET; THENCE N25°28'55"E A DISTANCE OF 62.00 FEET; THENCE S64°31'05"E A DISTANCE OF 274.53 FEET; THENCE S78°20'02"E A DISTANCE OF 86.94 FEET; THENCE N64°31'05"E A DISTANCE OF 62.00 FEET; THENCE S25°28'55"E A DISTANCE OF 156.67 FEET; THENCE N78°20'02"W A DISTANCE OF 86.94 FEET TO A NON TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 415.00 FEET, A CENTRAL ANGLE OF 14°04'50", A CHORD OF 101.73 FEET AND A CHORD BEARING OF S71°16'12"W; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 101.99 FEET; THENCE S25°28'46"E A DISTANCE OF 30.83 FEET TO THE POINT OF BEGINNING.

SHEET 1 OF 3

**HARPSTER ENGINEERING & SURVEYING, INC.**  
PROFESSIONAL LAND SURVEYORS  
LICENSED BUSINESS #0361  
400 NORTH SHORELINE AVENUE  
SUITE 200  
DADE CITY, FLORIDA 34601  
813-831-1100  
FAX 813-831-1101  
www.harpster-engineering.com

I HEREBY CERTIFY THAT THIS SKETCH OF THE SUBJECT PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, AS SURVEYED IN THE FIELD UNDER MY SUPERVISION AND THE DATA SHOWN HEREON. I FURTHER CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN FLORIDA ADMINISTRATIVE CODE CHAPTER 61G13, AS ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS PURSUANT TO FLORIDA STATUTES, SECTIONS 472.027, SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

FRED B. HARPSTER, S.F.S., No. 11127  
M. LISA LARRED, S.F.S., No. 11127  
SUSAN H. MCCOY, S.F.S., No. 11127  
UNLESS EMBOSSED WITH THE ORIGINAL RAISED SEAL OF A LICENSED SURVEYOR AND MAPPER, THIS SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

Instrument# 2006-282681 # 4  
 Book : 5951  
 Page : 3052

- SURVEYOR'S NOTES:
1. DIMENSIONS SHOWN IN FEET AND DECIMAL THEREOF.
  2. SUBJECT TO RESTRICTIONS, RESERVATIONS, LIMITATIONS, EASEMENTS AND RIGHTS OF WAY, IF ANY, APPEARING OF RECORD.
  3. NO UNDERGROUND AND/OR AERIAL UTILITIES ARE LOCATED EXCEPT AS SHOWN.
  4. LEGAL DESCRIPTION PREPARED BY HARPISTER ENGINEERING & SURVEYING, INC.
  5. TAX PARCEL # 6337-01-24-0011
  6. BEARING STRUCTURE PER DEED.
  7. FLOOD ZONE "X" (SHADED)  
 BEARING BASELINE IS THE WEST LINE OF LOTS 1 AND 2, BALTZGER SUBDIVISION.  
 COMMUNITY NAME CITY OF PORT ORANGE  
 COMMUNITY NUMBER 120313  
 MAP NUMBER 12127C0369 G  
 DATED 4-15-02  
 FLOOD ZONE "X" (SHADED) = AREAS OF 500 YEAR FLOOD; AREAS OF 100 YEAR FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 100 YEAR FLOOD.

LINE TABLE

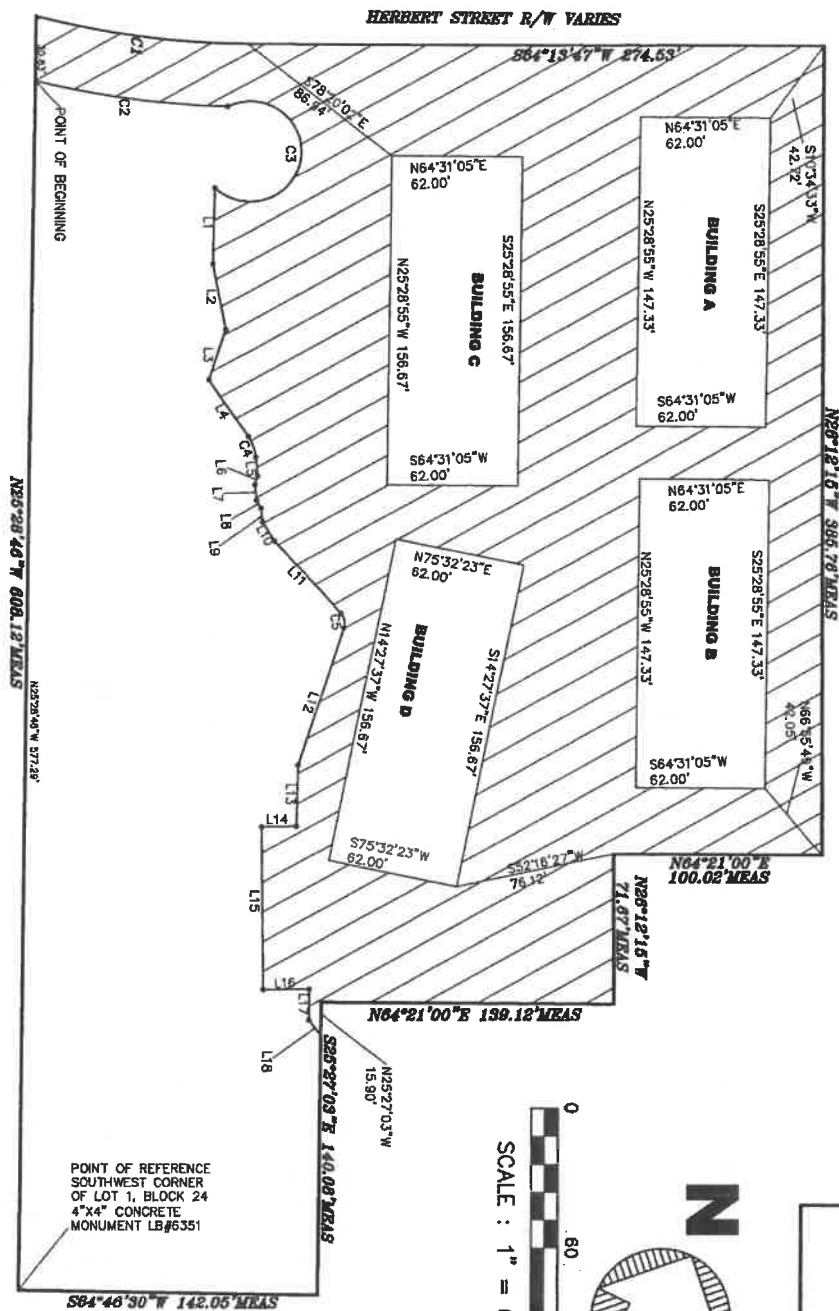
| LINE | LENGTH | BEARING     |
|------|--------|-------------|
| L1   | 36.21' | S24°43'32"E |
| L2   | 31.71' | S37°12'04"E |
| L3   | 25.30' | S08°14'22"E |
| L4   | 32.68' | S60°33'29"E |
| L5   | 8.95'  | S32°11'43"E |
| L6   | 4.37'  | S08°50'43"E |
| L7   | 7.52'  | S32°13'09"E |
| L8   | 4.36'  | S55°35'35"E |
| L9   | 6.61'  | S32°11'43"E |
| L10  | 10.86' | S58°03'56"E |
| L11  | 46.72' | S68°44'11"E |
| L12  | 68.86' | S07°40'17"E |
| L13  | 29.36' | S24°34'51"E |
| L14  | 16.45' | S63°16'16"W |
| L15  | 78.00' | S76°43'44"E |
| L16  | 21.76' | N63°16'16"E |
| L17  | 14.66' | S26°33'31"E |
| L18  | 9.33'  | S62°45'05"E |

CURVE TABLE

| CURVE | LENGTH | RADIUS | DELTA       | CHORD  | BEARING     |
|-------|--------|--------|-------------|--------|-------------|
| C1    | 101.99 | 415.00 | 14°04'50"   | 101.73 | S71°16'12"W |
| C2    | 93.09  | 445.00 | 11°59'10"   | 92.92  | N71°22'16"E |
| C3    | 104.65 | 24.00  | 2°49'50"08" | 39.36  | S17°44'12"E |
| C4    | 10.40  | 21.00  | 28°21'46"   | 10.29  | S46°22'36"E |
| C5    | 7.46   | 7.00   | 61°03'56"   | 7.11   | S38°12'14"E |

**HARPISTER ENGINEERING & SURVEYING, INC.**  
 PROFESSIONAL LAND SURVEYORS  
 LICENSED BUSINESS #0351  
 450 NORTH SHOREWAY AVENUE  
 SUITE 100  
 PORT ORANGE, FL 32127  
 (407) 325-1111  
 Fax: (407) 325-1112  
 Copyright © 2006 HarpiSTER Engineering & Surveying, Inc.

Instrument# 2006-282661 # 5  
Book: 5951  
Page: 3053  
Diane M. Matousek  
Volusia County, Clerk of Court



LEGEND  
R/W = RIGHT OF WAY  
MEAS = MEASURED  
OR = OFFICIAL RECORDS BOOK  
Pg = PAGE  
ESMT = EASEMENT

**IMPROVEMENTS ARE PROPOSED SHEET 3 OF 3**


**HARPSTER ENGINEERING & SURVEYING, INC.**  
 PROFESSIONAL LAND SURVEYORS  
 LICENSED BUSINESS #6351  
 438 NORTH GRANDVIEW AVENUE  
 DAYTONA BEACH, FL 32118  
 (306) 255-3241



| GENERAL CONSTRUCTION NOTES                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| THE CONTRACTOR IS RESPONSIBLE FOR COMPLIANCE WITH THE NOTES AND SPECIFICATIONS CONTAINED HEREIN. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 1.                                                                                               | NOTED REFERENCE DOCUMENTS ARE SPECIFICALLY INCORPORATED AS PART OF THIS PLAN SET. THE CONTRACTOR SHALL OBTAIN COPIES OF, AND FAMILIARIZE THEMSELVES WITH ALL DOCUMENTS SPECIFICALLY REFERENCED ANYWHERE WITHIN THIS PLAN SET                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 2.                                                                                               | ALL ACCESSIBLE SITE FEATURES (PATHS, PARKING SPACES, AISLES, LANDINGS, RAMP, SIGNAGE, ETC.) SHALL BE CONSTRUCTED IN COMPLIANCE WITH THE "AMERICANS WITH DISABILITIES ACT" (ADA) CODE (42 U.S.C. § 12101 ET SEQ. AND 42 U.S.C. § 4151 ET SEQ.). THE CONTRACTOR SHALL CONFIRM ACHIEVABLE COMPLIANCE PRIOR TO INSTALLING ANY FINISHED SURFACES IN ACCESSIBLE AREAS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 3.                                                                                               | PRIOR TO STARTING CONSTRUCTION, THE CONTRACTOR SHALL BE RESPONSIBLE TO ENSURE THAT ALL REQUIRED PERMITS AND APPROVALS HAVE BEEN OBTAINED. NO CONSTRUCTION OR FABRICATION SHALL BEGIN UNTIL AFTER THE CONTRACTOR HAS FAMILIARIZED THEMSELVES WITH ALL ENTITLEMENT DOCUMENTS, CONSTRUCTION PERMIT DOCUMENTS, AND ASSOCIATED CONDITIONS OF APPROVAL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 4.                                                                                               | THE CONTRACTOR SHALL MAINTAIN COPIES OF ALL CONSTRUCTION PERMITS AND APPROVALS AT THE PROJECT SITE, THROUGHOUT CONSTRUCTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 5.                                                                                               | THE CONTRACTOR SHALL BE FAMILIAR WITH AND RESPONSIBLE FOR THE PROCUREMENT OF THE CERTIFICATE OF OCCUPANCY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 6.                                                                                               | ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THESE PLANS AND SPECIFICATIONS AND ALL APPLICABLE REQUIREMENTS AND STANDARDS OF THE APPROPRIATE GOVERNMENTAL AUTHORITIES FOR THIS PROJECT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 7.                                                                                               | THE ENGINEER IS NOT RESPONSIBLE FOR CONSTRUCTION METHODS / MEANS FOR COMPLETION OF THE WORK DEPICTED NEITHER ON THESE PLANS, NOR FOR ANY CONFLICTS/SCOPE REVISIONS WHICH RESULT FROM SAME                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 8.                                                                                               | AS PART OF THEIR CONTRACT WITH THE OWNER, THE CONTRACTOR IS RESPONSIBLE TO ESTABLISH CONSTRUCTION MEANS AND METHODS FOR COMPLETING THE WORK DETAILED IN THIS PLAN SET                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 9.                                                                                               | THE CONTRACTOR SHALL FIELD VERIFY EXISTING CONDITIONS AND NOTIFY BARDEZ, LLC OF ANY DISCREPANCIES BETWEEN THE CONSTRUCTION DOCUMENTS, AND/OR WHICH HAS POTENTIAL TO IMPACT THE CONSTRUCTION COST OR SCHEDULE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 10.                                                                                              | ALL WRITTEN INFORMATION (TEXT, GRADES, DIMENSIONS, NOTES, ETC.) SHOWN WITHIN THE PLAN SET SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO THE START OF CONSTRUCTION. CONTRACTOR SHALL NOTIFY BARDEZ, LLC OF ANY DISCREPANCIES AND/OR SHALL REQUEST CLARIFICATION FROM BARDEZ, LLC IN WRITING BEFORE BEGINNING CONSTRUCTION.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 11.                                                                                              | PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL REVIEW ALL OTHER CONSTRUCTION PLANS/DOCUMENTS FOR CONSISTENCY BETWEEN THE INFORMATION SHOWN WITHIN THIS PLAN SET. CONTRACTOR SHALL NOTIFY BARDEZ, LLC OF ANY DISCREPANCIES AND/OR SHALL REQUEST CLARIFICATION FROM THE PLAN(S) PREPAROR(S) IN WRITING BEFORE BEGINNING CONSTRUCTION.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 12.                                                                                              | DEBRIS SHALL NOT BE BURIED ON THE SUBJECT SITE AND ALL UNSUITABLE EXCAVATED MATERIAL AND DEBRIS SHALL BE DISPOSED OF IN ACCORDANCE WITH THE REQUIREMENTS AND STANDARDS OF THE APPROPRIATE GOVERNMENTAL AUTHORITIES FOR THIS PROJECT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 13.                                                                                              | THE CONTRACTOR IS RESPONSIBLE FOR ALL SHORING REQUIRED DURING EXCAVATION (TO BE PERFORMED IN ACCORDANCE WITH CURRENT OSHA STANDARDS) AND ANY ADDITIONAL PRECAUTIONS TO BE TAKEN TO ENSURE THE STABILITY OF STRUCTURES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 14.                                                                                              | THROUGHOUT CONSTRUCTION, THE CONTRACTOR IS RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING STRUCTURES, VEGETATION, FEATURES, INFRASTRUCTURE, ETC., WHICH IS NOT SPECIFICALLY IDENTIFIED FOR REMOVAL WITHIN THIS PLAN SET                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 15.                                                                                              | THE CONTRACTOR IS RESPONSIBLE FOR REPAIRING ANY DAMAGE DONE TO ANY NEW OR EXISTING CONSTRUCTION OR PROPERTY DURING THE COURSE OF CONSTRUCTION, INCLUDING BUT NOT LIMITED TO DRAINAGE, UTILITIES, PAVEMENT, STRIPING, CURB, ETC. THE CONTRACTOR SHALL BE RESPONSIBLE FOR AND SHALL REPLACE ALL SIGNAL INTERCONNECTION CABLE, WIRING CONDUITS, AND ANY UNDERGROUND ACCESSORY EQUIPMENT DAMAGED DURING CONSTRUCTION. THE REPAIR OF ANY SUCH NEW OR EXISTING CONSTRUCTION OR PROPERTY SHALL RESTORE SUCH CONSTRUCTION OR PROPERTY TO A CONDITION EQUIVALENT TO OR BETTER THAN THE EXISTING CONDITIONS, AND IN CONFORMANCE WITH APPLICABLE CODES. CONTRACTOR IS RESPONSIBLE TO DOCUMENT ALL EXISTING DAMAGE AND NOTIFY THE APPROPRIATE PARTIES BEFORE BEGINNING ANY CONSTRUCTION ACTIVITIES                                                                                                                                                                                                                              |
| 16.                                                                                              | BARDEZ, LLC IS NOT RESPONSIBLE FOR CONSTRUCTION JOB SITE SAFETY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 17.                                                                                              | ALL CONTRACTORS MUST CARRY THE SPECIFIED STATUTORY WORKER'S COMPENSATION INSURANCE, EMPLOYER'S LIABILITY INSURANCE AND LIMITS OF COMMERCIAL GENERAL LIABILITY INSURANCE (CGL). ALL CONTRACTORS MUST HAVE THEIR CGL POLICIES ENDORSED TO NAME BARDEZ, LLC AND THEIR SUB-CONSULTANTS AS ADDITIONAL NAMED INSURERS AND TO PROVIDE CONTRACTUAL LIABILITY COVERAGE SUFFICIENT TO ENSURE THE HOLD HARMLESS AND INDEMNITY OBLIGATIONS ASSUMED BY THE CONTRACTORS. ALL CONTRACTORS MUST FURNISH BARDEZ, LLC WITH EVIDENCE OF THE REQUIRED INSURANCE PRIOR TO COMMENCING WORK AND UPON RENEWAL OF EACH POLICY DURING THE ENTIRE PERIOD OF CONSTRUCTION. IN ADDITION, ALL CONTRACTORS WILL, TO THE FULLEST EXTENT PERMITTED BY LAW, INDEMNIFY AND HOLD HARMLESS BARDEZ, LLC AND ITS SUB-CONSULTANTS FROM AND AGAINST ANY DAMAGES, LIABILITIES OR COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND DEFENSE COSTS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PROJECT, INCLUDING ALL CLAIMS BY EMPLOYEES OF THE CONTRACTORS |
| 18.                                                                                              | WHEN ENGAGED BY THE OWNER, OR OTHER APPROPRIATE PARTY, BARDEZ, LLC WILL REVIEW CONTRACTOR SUBMITTALS, SUCH AS SHOP DRAWINGS, PRODUCT DATA, SAMPLES AND OTHER DATA, ONLY FOR THE LIMITED PURPOSE OF CHECKING FOR CONFORMANCE WITH THE DESIGN INTENT AND THE INFORMATION SHOWN IN CONSTRUCTION CONTRACT DOCUMENTS PREPARED BY BARDEZ, LLC AND ITS SUB-CONSULTANTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 19.                                                                                              | WHEN ENGAGED BY THE OWNER, OR OTHER APPROPRIATE PARTY, BARDEZ, LLC WILL CONDUCT REVIEW OF CONTRACTOR SUBMITTALS WITH REASONABLE PROMPTNESS. BARDEZ, LLC IS NOT BE RESPONSIBLE FOR ANY DEVIATIONS FROM THE CONSTRUCTION DOCUMENTS NOT BROUGHT TO ATTENTION, IN WRITING, BY THE CONTRACTOR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 20.                                                                                              | NEITHER THE PROFESSIONAL ACTIVITIES OF BARDEZ, LLC, NOR THE PRESENCE OF BARDEZ, LLC EMPLOYEES OR SUB-CONSULTANTS AT A CONSTRUCTION / PROJECT SITE, SHALL RELIEVE THE GENERAL CONTRACTOR OF THEIR OBLIGATIONS, DUTIES, AND RESPONSIBILITIES INCLUDING, BUT NOT LIMITED TO: CONSTRUCTION MEANS AND METHODS, SEQUENCE, SCHEDULE, TECHNIQUES OR PROCEDURES NECESSARY FOR PERFORMING, SUPERINTENDING AND COORDINATING THE WORK IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND ANY HEALTH OR SAFETY PRECAUTIONS REQUIRED BY ANY REGULATORY AGENCIES. BARDEZ, LLC AND ITS PERSONNEL HAVE NO AUTHORITY TO EXERCISE ANY CONTROL OVER ANY CONSTRUCTION CONTRACTOR OR ITS EMPLOYEES IN CONNECTION WITH THEIR WORK OR ANY HEALTH OR SAFETY PROGRAMS OR PROCEDURES                                                                                                                                                                                                                                                                |
| 21.                                                                                              | IF THE CONTRACTOR DEVIATES FROM THE PLANS AND SPECIFICATIONS, INCLUDING THE NOTES CONTAINED HEREIN, WITHOUT FIRST OBTAINING THE PRIOR WRITTEN AUTHORIZATION OF BARDEZ, LLC FOR SUCH DEVIATIONS, CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE PAYMENT OF ALL COSTS INCURRED IN CORRECTING ANY WORK DONE WHICH DEVIATES FROM THE PLANS, ALL FINES AND/OR PENALTIES ASSESSED WITH RESPECT THERETO AND ALL COMPENSATORY OR PUNITIVE DAMAGES RESULTING THEREFROM. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE OWNER AND BARDEZ, LLC HARMLESS FROM ALL SUCH RELATED COSTS                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 22.                                                                                              | CONTRACTOR IS RESPONSIBLE FOR MAINTENANCE AND PROTECTION OF TRAFFIC PLAN FOR ALL WORK THAT AFFECTS PUBLIC TRAVEL EITHER IN A PUBLIC RIGHT-OF-WAY OR PRIVATE PROPERTY. THE COST FOR SUCH ACTIVITIES SHOULD BE CONSIDERED AS PART OF THE CONSTRUCTION CONTRACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 23.                                                                                              | THE CONTRACTOR IS RESPONSIBLE FOR COMPLIANCE WITH CONSTRUCTION PERMIT CONDITIONS, INCLUDING, BUT NOT LIMITED TO PRE-CONSTRUCTION REQUIREMENTS, AND PERMIT CLOSE-OUT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 24.                                                                                              | NECESSARY EASEMENTS SHALL BE SECURED, RECORDED, AND PAID FOR BY THE CONTRACTOR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 25.                                                                                              | WHEN ENGAGED BY THE OWNER, OR OTHER APPROPRIATE PARTY, BARDEZ, LLC REQUIRES A MINIMUM 48 HOUR NOTICE IN ADVANCE OF SCHEDULED INSPECTIONS OR MEETINGS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 26.                                                                                              | IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO ARRANGE AMENTIES DURING CONSTRUCTION, INCLUDING, BUT NOT LIMITED TO WATER SERVICES, SANITATION FACILITIES, ELECTRIC SERVICES, ETC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 27.                                                                                              | IT SHALL BE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR FOR ANY NECESSARY CONSTRUCTION, PAVEMENT MARKINGS, SIGNAGE, OR SIGNAL MODIFICATIONS NECESSARY FOR CONTINUITY OF PEDESTRIAN SAFETY THROUGHOUT CONSTRUCTION. ANY TRAFFIC CONTROL DEVICES, MODIFIED FOR THE PURPOSE OF CONSTRUCTION, SHALL BE RESTORED TO THE SATISFACTION OF THE GOVERNING TRAFFIC AUTHORITY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 28.                                                                                              | THE CONTRACTOR SHALL INDEPENDENTLY DETERMINE THE TRUE VERTICAL AND HORIZONTAL LOCATION AND SIZE OF ALL UTILITIES, PIPES, AND/OR STRUCTURES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO PUBLIC OR PRIVATE UTILITIES, SHOWN OR NOT SHOWN WITHIN THIS PLAN SET                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| PROJECT CLOSEOUT NOTES |                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.                     | DURING CONSTRUCTION, THE PROJECT SITE AND ALL ADJACENT AREAS SHALL BE MAINTAINED IN A NEAT AND CLEAN MANNER, AND UPON FINAL CLEANUP, THE PROJECT SITE SHALL BE LEFT CLEAR OF ALL SURPLUS MATERIAL OR TRASH. THE PAVED AREAS SHALL BE SWEEPED BROOM CLEAN                                                                                                                                                                     |
| 2.                     | THE CONTRACTOR SHALL RESTORE OR REPLACE, WHEN AND AS DIRECTED, ANY PUBLIC OR PRIVATE PROPERTY DAMAGED BY HIS WORK, EQUIPMENT, OR EMPLOYEES, TO A CONDITION AT LEAST EQUAL TO THAT EXISTING IMMEDIATELY PRIOR TO THE BEGINNING OF OPERATIONS TO THAT END. THE CONTRACTOR SHALL DO, AS REQUIRED, ALL NECESSARY HIGHWAY, DRIVEWAY, WALK AND LANDSCAPING WORK. SUITABLE MATERIALS AND METHODS SHALL BE USED FOR SUCH RESTORATION |
| 3.                     | WHERE MATERIAL OR DEBRIS HAS WASHED OR FLOWED INTO OR HAS BEEN PLACED IN WATER COURSES, DITCHES, DRAINS, CATCH BASINS, OR ELSEWHERE AS A RESULT OF THE CONTRACTOR'S OPERATIONS, SUCH MATERIAL OR DEBRIS SHALL BE REMOVED AND SATISFACTORILY DISPOSED OF DURING THE PROGRESS OF THE WORK, AND THE AREA KEPT IN A CLEAN AND NEAT CONDITION                                                                                     |
| 4.                     | ALL PROPERTY MONUMENTS OR PERMANENT REFERENCES, REMOVED OR DESTROYED BY THE CONTRACTOR DURING CONSTRUCTION SHALL BE RESTORED BY A STATE OF FLORIDA REGISTERED LAND SURVEYOR AND MAPPER AT THE CONTRACTOR'S EXPENSE                                                                                                                                                                                                           |
| 5.                     | ALL PAVED & UNPAVED SURFACES DISTURBED OR DAMAGED AS A RESULT OF CONSTRUCTION ACTIVITIES SHALL BE RESTORED TO A CONDITION EQUAL TO OR BETTER THAN THAT WHICH EXISTED BEFORE THE CONSTRUCTION                                                                                                                                                                                                                                 |

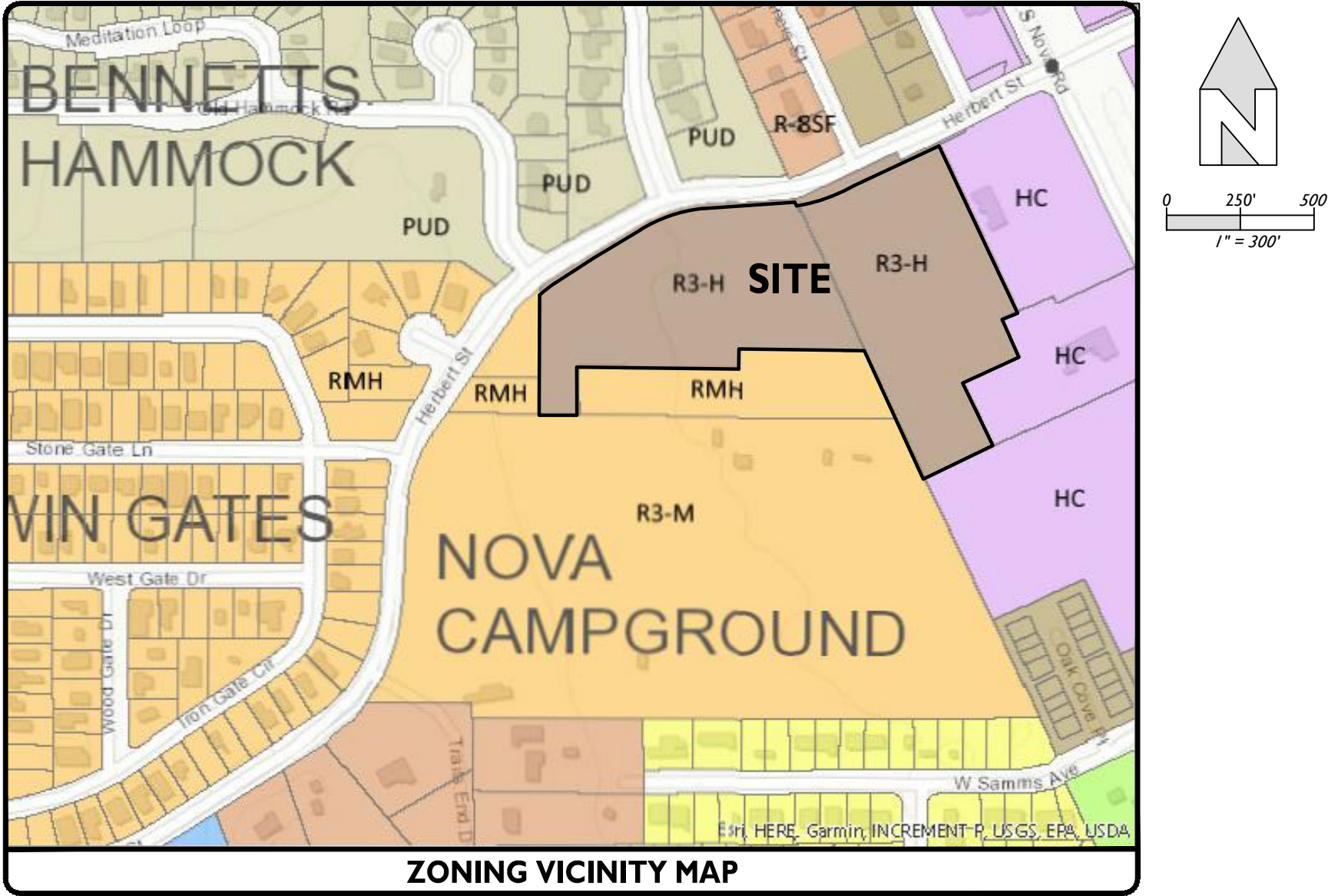
# SITE DEVELOPMENT DRAWINGS

## FOR

# VILLA NOVA

## 1040 W. HERBERT STREET

## PORT ORANGE, FLORIDA



| REFERENCE DOCUMENTS |                                                                                                                   |
|---------------------|-------------------------------------------------------------------------------------------------------------------|
| DOCUMENT:           | SPECIFIC PURPOSE SURVEY                                                                                           |
| DATE:               | 05-04-2021                                                                                                        |
| PREPARED BY:        | CULLUM LAND SURVEYING INC.<br>5889 S. WILLIAMSON BLVD.; SUITE 205<br>PORT ORANGE, FL 32128<br>TEL. (386) 761-7666 |



| SHEET INDEX |                                  |
|-------------|----------------------------------|
| ID          | TITLE                            |
| C-1.0       | COVER SHEET                      |
| C-2.0       | DEMOLITION PLAN                  |
| C-2.1       | EROSION CONTROL PLAN             |
| C-2.2       | EROSION CONTROL DETAILS          |
| C-3.0       | SITE PLAN                        |
| C-3.1       | SITE LIGHTING PLAN               |
| C-3.2       | SITE DETAILS                     |
| C-3.3       | SITE DETAILS                     |
| C-3.4       | SITE DETAILS                     |
| C-3.5       | SITE DETAILS                     |
| C-3.6       | SITE DETAILS                     |
| C-4.0       | ENGINEERING PLAN                 |
| C-4.1       | GRADING CROSS SECTIONS           |
| C-4.2       | STORM DRAIN PROFILES             |
| C-4.3       | ENGINEERING DETAILS              |
| C-4.4       | ENGINEERING DETAILS              |
| C-5.0       | SANITARY SEWER PLAN AND PROFILES |
| C-5.1       | SANITARY SEWER NOTES             |
| C-5.2       | SANITARY SEWER DETAILS           |
| C-5.3       | SANITARY SEWER DETAILS           |
| C-6.0       | POTABLE WATER PLAN               |
| C-6.1       | POTABLE WATER PROFILES           |
| C-6.2       | POTABLE WATER NOTES              |
| C-6.3       | POTABLE WATER DETAILS            |
| C-6.4       | POTABLE WATER DETAILS            |
| TP1-4       | TREE PROTECTION PLAN AND DETAILS |
| LA1-3       | LANDSCAPE PLAN AND DETAILS       |
| IR1-3       | IRRIGATION PLAN AND DETAILS      |
| DRC-1       | 2 STORY BUILDING FLOOR PLAN      |
| DRC-2       | 2 STORY BUILDING ELEVATIONS      |
| DRC-3       | 3 STORY BUILDING FLOOR PLAN      |
| DRC-4       | 3 STORY BUILDING ELEVATIONS      |



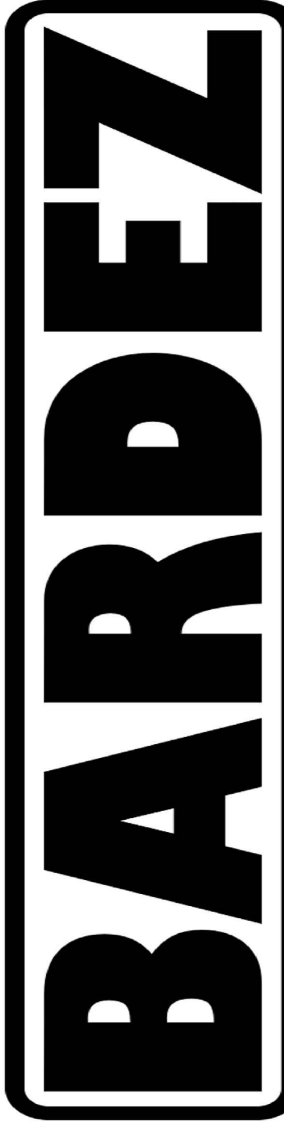
5048 POINTE EMERALD LANE; BOCA RATON, FL 33486  
(0) 561-465-5949 | (e) nbarnett@bardezco.com

| SANITARY SEWER CONSTRUCTION NOTES |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1)                                | <b>GENERAL</b><br>a. DISTANCE AND LENGTHS SHOWN ON PLANS BEAR REFERENCE TO THE INSIDE WALL OF STRUCTURES<br>b. IN THE CASE OF A CONFLICT, THE SANITARY SEWER CONSTRUCTION NOTES ARE SUPERCEDED BY THE CITY OF PORT ORANGE RULES, REGULATIONS, AND STANDARD CONSTRUCTION DETAILS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2)                                | <b>MATERIALS</b><br>a. ALL PVC SEWER PIPE AND FITTINGS SHALL BE NON-PRESSURE POLYVINYL CHLORIDE (PVC) PIPE CONFORMING TO ASTM D 3034, SDR 26, WITH PUSH-ON RUBBER GASKET JOINTS<br>b. DUCTILE IRON PIPE (DIP) SHALL BE CEMENT OR POLYLINE INSIDE AND SHALL HAVE A COAL TAR EPOXY COATING, MANUFACTURED IN ACCORDANCE WITH ANSI/AWWA C151/A21.51-86 OR LATEST REVISION, MINIMUM WALL THICKNESS CLASS 52 (4"-12") & CLASS 51 (14"-20")<br>c. ALL FITTINGS AND ACCESSORIES SHALL BE AS MANUFACTURED AND SUPPLIED BY THE PIPE MANUFACTURER, OR APPROVED EQUIVALENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 3)                                | <b>INSTALLATION</b><br>a. PIPE AND FITTINGS<br>• SEWER PIPE SHALL BE INSTALLED IN ACCORDANCE WITH ASTM D2321, AND THE UNI-BELL PLASTICS PIPE ASSOCIATION'S RECOMMENDED PRACTICE FOR THE INSTALLATION OF PVC SEWER PIPE<br>• DUCTILE IRON PIPE (D.I.P.) SHALL BE INSTALLED IN ACCORDANCE WITH ANSI/AWWA C600-93 OR LATEST REVISION<br>• BEDDING AND INITIAL BACKFILL (12 INCHES) OVER SEWER MAINS AND SERVICES SHALL BE SAND WITH NO ROCK LARGER THAN 1" IN DIAMETER. PEA ROCK OR 3/4 " WASHED ROCK WILL BE USED IN WATER OR WHERE UNSUITABLE BEDDING EXISTS AT THE DISCRETION OF THE INSPECTOR<br>b. SERVICE:<br>• MINIMUM SLOPE OF ALL SANITARY SERVICE LATERALS SHALL BE PER PLAN, AND NO LESS THAN THE MINIMUM PERMISSIBLE SLOPES NOTED IN THE LATEST EDITION OF THE FLORIDA BUILDING CODE<br>• SERVICE LATERALS SHALL TERMINATE AT A MINIMUM DEPTH OF 30" BELOW FINISHED GRADE<br>• SERVICE CONNECTIONS SHALL BE FITTED WITH AN APPROVED/WATER-TIGHT PLUG PRIOR TO CONNECTION<br>• THE END OF EACH SERVICE CONNECTION SHALL BE MARKED WITH A SURVEY STAKE, PAINTED RED AND EXTENDING 18"(MIN) ABOVE GRADE<br>• CONTRACTOR SHALL ROUGH IN RISER TO 1 FOOT ABOVE FINISHED GRADE AND PLUG. AT PROJECT COMPLETION, CUT BACK TO FINISHED GRADE<br>• CONNECTION OF SERVICES TO BUILDING'S PLUMBING SHALL BE IN COMPLIANCE WITH THE PLUMBING AUTHORITY |
| 5)                                | <b>TESTING</b><br>a. UPON CONSTRUCTION OF THE SEWER SYSTEM, THE ENGINEER MAY REQUIRE A LEAKAGE TEST TO BE PERFORMED AT THEIR DISCRETION<br>b. MANHOLE LEAKAGE TEST SHALL NOT EXCEED FOUR GALLONS PER DAY PER UNIT. NO VISIBLE LEAKAGE IS PERMITTED<br>c. SEWER PIPE LEAKAGE ALLOWABLE SHALL NOT EXCEED 150 GALLONS/DAY/INCH DIAMETER/MILE, WITHIN A TWO HOUR TEST PERIOD FOR ANY SECTION TESTED. NO VISIBLE LEAKAGE SHALL BE ALLOWED AND ALL LINES SHALL BE TELEVIEWED<br>d. SANITARY SEWER SHALL BE TELEVIEWED AND LAMPED AT DEVELOPER'S EXPENSE, PRIOR TO FINAL ACCEPTANCE. OWNER / CONTRACTOR IS RESPONSIBLE FOR CORRECTING ANY DEFICIENCIES IN ADVANCE OF AGENCY CERTIFICATION<br>e. VISIBLE LEAKAGE INTO EXISTING OR CONSTRUCTED SEWER FACILITIES IS NOT PERMITTED                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

| MANDATORY WATER/SEWER SEPARATION NOTES |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1)                                     | <b>VERTICAL CROSSINGS</b><br>SANITARY SEWER SYSTEMS AND/OR RECLAIMED WATER MAINS SHALL CROSS UNDER POTABLE WATER MAINS WHENEVER PHYSICALLY POSSIBLE. SANITARY SEWER SYSTEMS AND/OR RECLAIMED WATER MAINS CROSSING BELOW POTABLE WATER MAINS SHALL BE LAID TO PROVIDE A PREFERRED VERTICAL SEPARATION DISTANCE OF 12 INCHES (MINIMUM 6" FOR GRAVITY/RECLAIMED MAIN) BETWEEN THE INVERT OF THE POTABLE WATER MAIN AND THE CROWN OF THE LOWER PIPE                                                                                                                                                                                                                                                                                                                                                  |
| 2)                                     | <b>HORIZONTAL SEPARATIONS</b><br>WHEREVER IT IS PHYSICALLY POSSIBLE:<br><br>a. SANITARY SEWER SYSTEMS REQUIRE A PREFERRED 10-FOOT HORIZONTAL SEPARATION DISTANCE (MINIMUM 6-FOOT) OUTSIDE TO OUTSIDE OF PIPE BETWEEN ANY POTABLE WATER MAIN PARALLEL INSTALLATIONS.<br><br>b. RECLAIMED WATER MAINS REQUIRE A MINIMUM OF A 3 FOOT OUTSIDE TO OUTSIDE OF PIPE HORIZONTAL SEPARATION DISTANCE BETWEEN ANY POTABLE WATER MAIN AND/OR A SANITARY SEWER SYSTEM PARALLEL INSTALLATIONS.<br><br>c. WHEREVER EITHER ARE NOT PHYSICALLY POSSIBLE, THEN THE POTABLE WATER MAIN SHALL BE LAID AT THE MAXIMUM PHYSICAL HORIZONTAL SEPARATION DISTANCE POSSIBLE, AND EITHER LAID: A) IN A SEPARATE TRENCH; B) ON AN UNDISTURBED EARTH SHELF; AND CONFORMING TO THE MINIMUM VERTICAL CROSSINGS IN PARAGRAPH 1) |
| 3)                                     | <b>CONFLICTS</b><br>WHEREVER IT IS NOT POSSIBLE TO MAINTAIN THE MINIMUM STANDARDS IN 1) AND 2), THEN ALL PIPING MATERIAL SHALL BE DUCTILE IRON PIPE (DIP), ALL DIP SHALL BE CLASS 50 OR HIGHER, ADEQUATE PROTECTIVE MEASURES AGAINST CORROSION SHALL BE USED AS DETERMINED BY THE DESIGN AND SITE CONDITIONS. ADDITIONALLY, THE POTABLE WATER MAIN SHALL HAVE A FULL JOINT CENTERED ON THE CONFLICT AND MECHANICALLY RESTRAINED, AN ABSOLUTE MINIMUM VERTICAL SEPARATION DISTANCE OF 6 INCHES SHALL BE PROVIDED BETWEEN THE INVERT OF THE UPPER PIPE AND THE CROWN OF THE LOWER PIPE                                                                                                                                                                                                             |

| RECORD DOCUMENTATION NOTES |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.                         | THROUGHOUT DURATION OF THE PROJECT, THE CONTRACTOR SHALL KEEP APPROPRIATE RECORDS FOR ANY CONSTRUCTION ACTIVITIES WHICH DEVIATE FROM THIS PLAN SET                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 2.                         | THE CONTRACTOR SHALL FURNISH 'AS-BUILT' PLANS OF THE PAVEMENT BASE (ROCK) AND DRAINAGE INSTALLATIONS TO BARDEZ, LLC FOR REVIEW/APPROVAL BEFORE PLACING THE FIRST LIFT OF ASPHALT                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 3.                         | PRESSURE PIPE SYSTEMS (WATER DISTRIBUTION, SANITARY SEWER FORCE MAIN, RECLAIMED WATER) 'AS-BUILTS' MUST CONTAIN LOCATION AND ELEVATION OF ALL APPURTENANCES, FITTINGS, AND SERVICES. TOP OF PIPE ELEVATIONS SHALL BE DETAILED ALONG PIPE INSTALLATIONS @ MAXIMUM 50 FT INTERVALS                                                                                                                                                                                                                                                                                                                                                                         |
| 4.                         | THE BASIS FOR ALL CONSTRUCTION 'AS-BUILTS' SHALL BE CERTIFIED BY A PROFESSIONAL LAND SURVEYOR, LICENSED TO DO BUSINESS IN THE STATE OF FLORIDA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 5.                         | CONSTRUCTION 'AS-BUILTS' FOR GRAVITY SEWER INSTALLATIONS SHALL INCLUDE THE FOLLOWING INFORMATION, AT A MINIMUM:<br>a. KEY ELEVATIONS/LOCATIONS OF ALL SANITARY SEWER STRUCTURES, INCLUDING, BUT NOT LIMITED TO MANHOLE RIMS, CONNECTING PIPE INVERTS, BOTTOM/TOP OF WET WELL, COMPOUND AREA, ETC<br>b. SANITARY SEWER PIPE SIZE, MATERIALS, LOCATIONS, ELEVATIONS, LENGTHS, AND SLOPES<br>c. SANITARY SEWER SERVICE LATERALS PIPE SIZE, MATERIALS, LOCATIONS, ELEVATIONS, LENGTHS, AND SLOPES<br>d. CLEANOUT PIPE SIZE, LOCATIONS, AND ELEVATIONS                                                                                                        |
| 7.                         | CONSTRUCTION 'AS-BUILTS' FOR DRAINAGE INSTALLATIONS SHALL INCLUDE THE FOLLOWING INFORMATION, AT A MINIMUM:<br>a. KEY ELEVATIONS/LOCATIONS OF ALL DRAINAGE STRUCTURES, INCLUDING, BUT NOT LIMITED TO INLET GRATES, MANHOLE RIMS, CONNECTING PIPE INVERTS, BOTTOM/TOP OF STRUCTURE, ETC<br>b. KEY ELEVATIONS/LOCATIONS/MATERIALS OF ALL STORMWATER MANAGEMENT DEVICES, INCLUDING, BUT NOT LIMITED TO EXFILTRATION TRENCH, POLLUTION RETARDANT Baffles, WEIRS, WELL Baffle WALLS, WELL TOP OF CASING, RETENTION PONDS, DETENTION PONDS, BERMS, SWALES, DITCHES, FLUMES, ETC<br>c. DRAINAGE PIPE SIZE, MATERIALS, LOCATIONS, ELEVATIONS, LENGTHS, AND SLOPES |
| 8.                         | CONSTRUCTION 'AS-BUILTS' FOR PAVEMENT BASE MATERIAL INSTALLATIONS (ROCK) SHALL INCLUDE THE FOLLOWING INFORMATION, AT A MINIMUM:<br>a. ELEVATIONS SUFFICIENT TO DETERMINE SLOPES<br>b. ELEVATIONS AT ALL HIGH POINTS, LOW POINTS, CORNER POINTS, CONCRETE TRANSITIONS, AT ENOUGH INTERMEDIATE POINTS TO CONFIRM SLOPE CONSISTENCY<br>c. SURFACE ELEVATIONS/LOCATIONS OF ALL DRAINAGE STRUCTURES, INCLUDING, BUT NOT LIMITED TO INLET GRATES AND MANHOLE RIMS                                                                                                                                                                                              |
| 9.                         | UPON COMPLETION OF CONSTRUCTION, AND PRIOR TO FINAL PAYMENT, THE CONTRACTOR SHALL SUBMIT TO BARDEZ, LLC AN 'AS-BUILT' COPY OF THE CONTRACT DRAWINGS ACCEPTED/APPROVED FOR OPERATIONS BY THE APPROPRIATE PERMITTING AUTHORITY FOR OPERATIONS. IN ADDITION, THE CONTRACTOR SHALL PROVIDE BARDEZ, LLC WITH A COPY OF THE ELECTRONIC FILES USED TO PRODUCE THE ACCEPTED/APPROVED 'AS-BUILT' DRAWINGS, IN A FORMAT COMPATIBLE FOR USE WITH THE MOST CURRENT VERSION OF AUTODESK AUTOCAD/CIVIL3D                                                                                                                                                               |
| 10.                        | IN THE CASE OF DISCREPANCY, THE ABOVE REQUIREMENTS FOR RECORD DOCUMENTATION ARE SUPERCEDED BY THE CITY OF PORT ORANGE REQUIREMENTS FOR AS-BUILT DRAWINGS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11.                        | REFER TO SITE DETAILS (SHEET C-3.1) FOR THE CITY OF PORT ORANGE REQUIREMENTS FOR AS-BUILT DRAWINGS (S.C.D. NO. M-5 & M-5.1)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

| REVISIONS |      |             |
|-----------|------|-------------|
| REV       | DATE | DESCRIPTION |
| 1         | ---  | ---         |
| 2         | ---  | ---         |
| 3         | ---  | ---         |
| 4         | ---  | ---         |
| 5         | ---  | ---         |
| 6         | ---  | ---         |
| 7         | ---  | ---         |
| 8         | ---  | ---         |
| 9         | ---  | ---         |
| 10        | ---  | ---         |



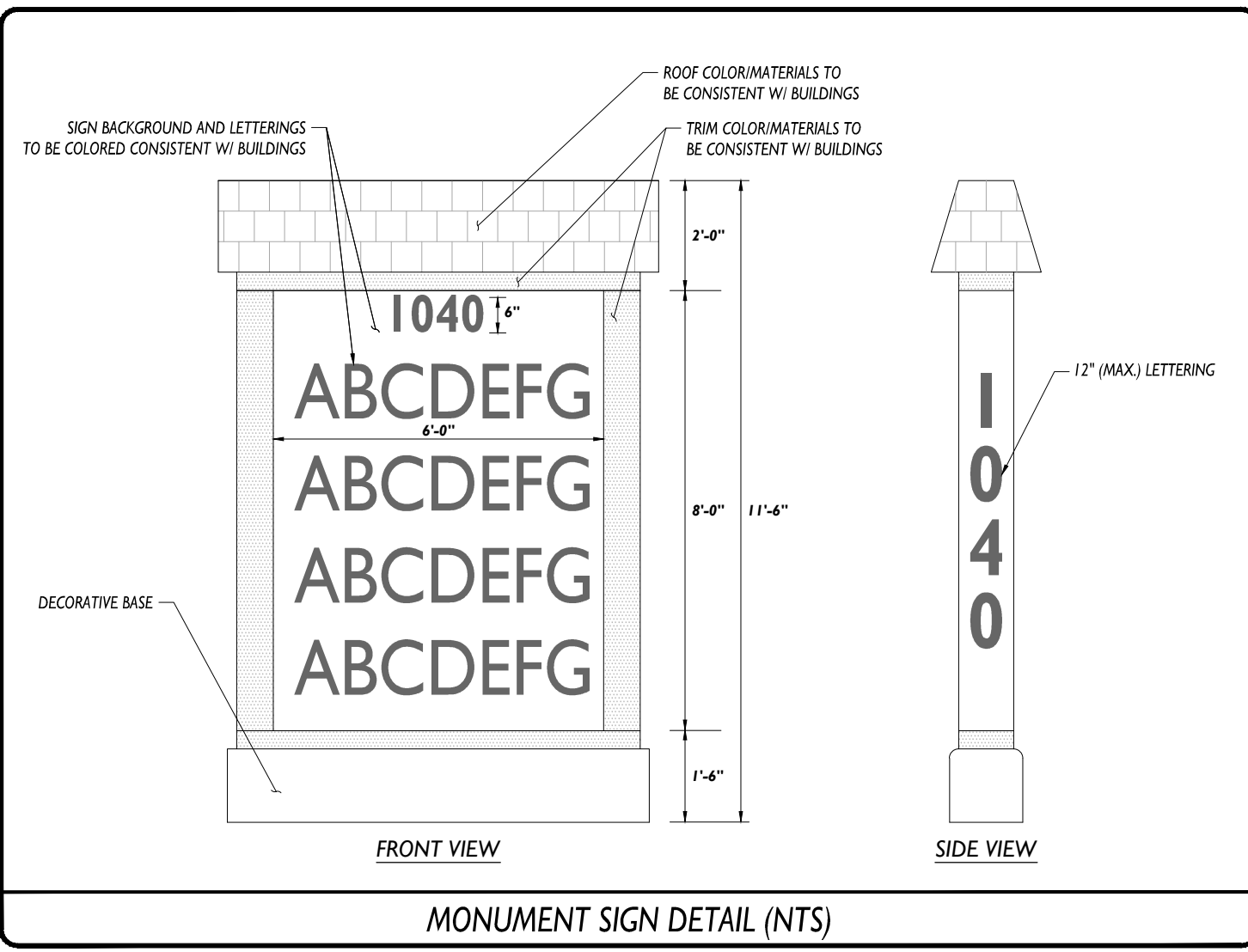
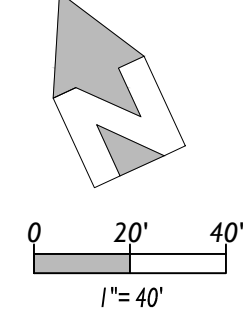
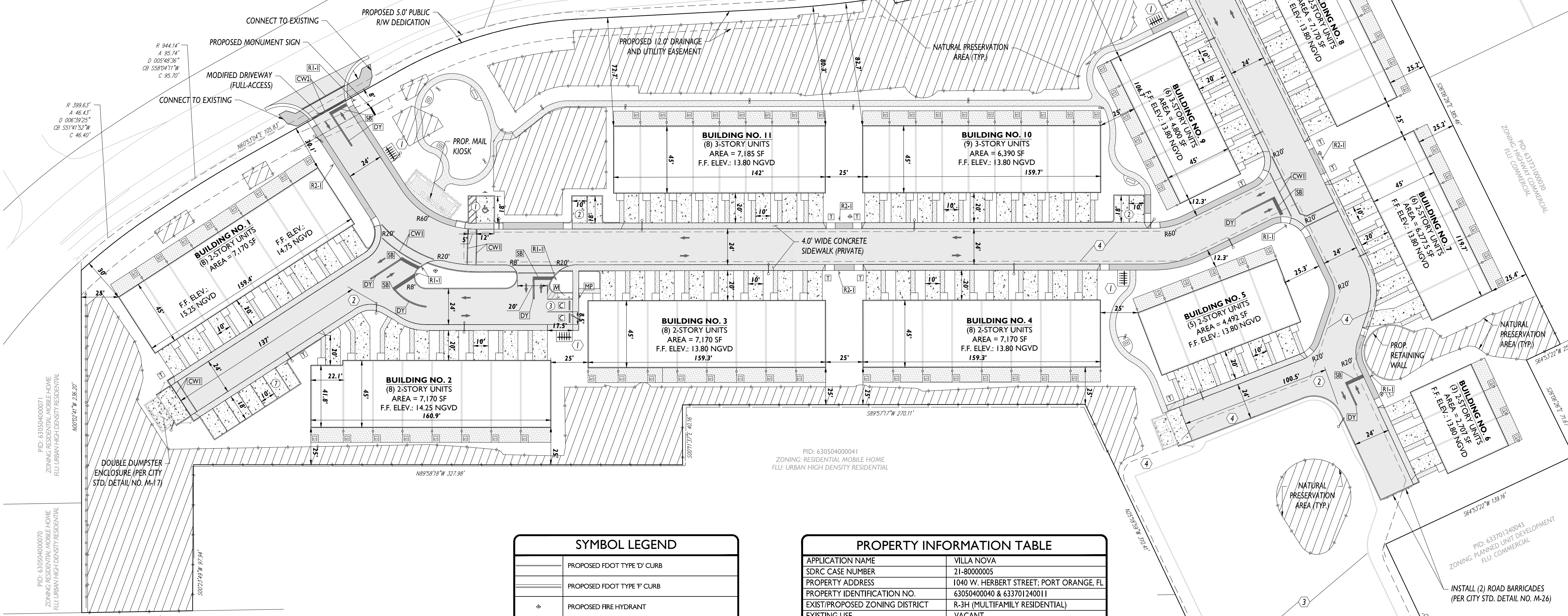
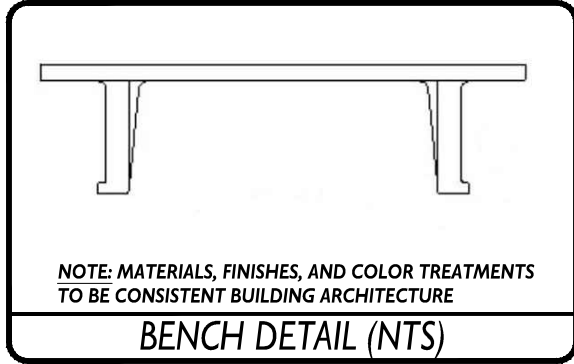
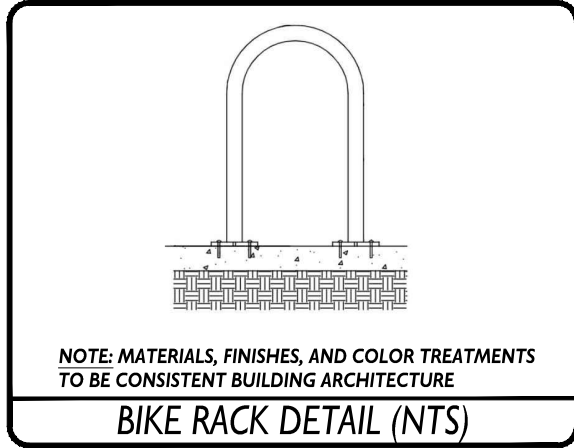
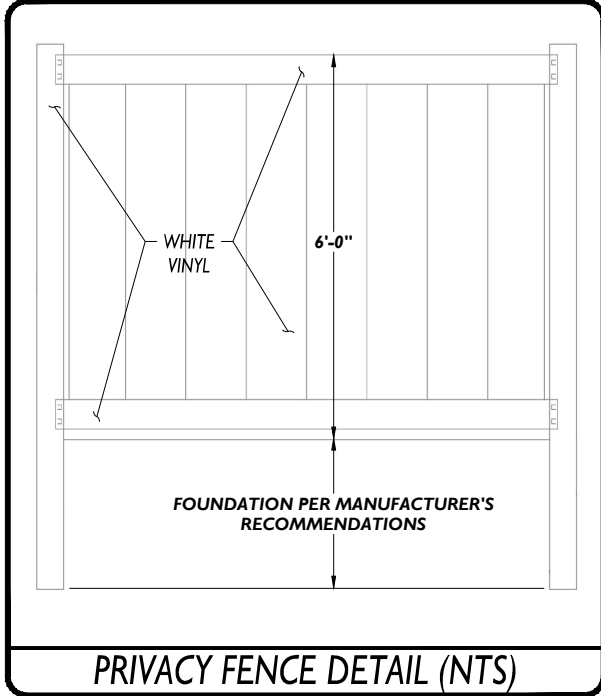
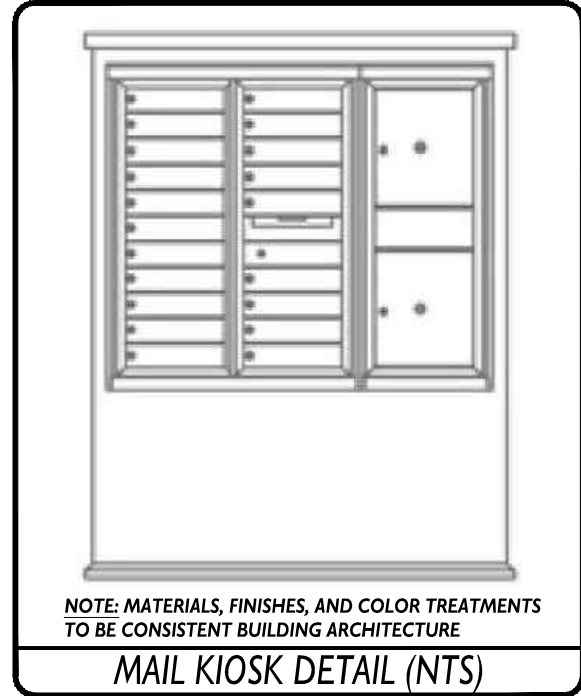
5048 POINTE EMERALD LANE; BOCA RATON, FL 33486  
(0) 561-465-5949 | (e) nbarnett@bardezco.com

PROJECT DESCRIPTION  
**VILLA NOVA**  
MULTIFAMILY RESIDENTIAL DEVELOPMENT  
ADDRESS: 1040 HERBERT STREET; PORT ORANGE, FL 32129  
PARCEL ID NUMBERS: 630504000040 & 633701240011  
PREPARED FOR: VILLA NOVA 8.0, LLC

CERTIFICATION  
  
DATE: 12-22-2022  
**NOEL BARNETT**  
PROFESSIONAL ENGINEER  
FL LICENSE NO. 72006  
FL BUSINESS C.A. NO.: 32223

SHEET TITLE  
  
COVER SHEET  
  
SHEET ID  
  
**C-1.0**





| SYMBOL LEGEND |                                                                                                      |
|---------------|------------------------------------------------------------------------------------------------------|
| [Symbol]      | PROPOSED FOOT TYPE 'D' CURB                                                                          |
| [Symbol]      | PROPOSED FOOT TYPE 'F' CURB                                                                          |
| [Symbol]      | PROPOSED FIRE HYDRANT                                                                                |
| [Symbol]      | PROP. ELEVATED / NON-VEHICULAR CONC. WALKWAY (4" MIN. THICKNESS, REINFORCED PER CITY S.C.D. NO. M-6) |
| [Symbol]      | PROPOSED FLUSH CONCRETE WALKWAY (6" MIN. THICKNESS, REINFORCED PER CITY S.C.D. NO. M-6)              |
| [Symbol]      | PROPOSED DETECTABLE WARNING                                                                          |
| [Symbol]      | PROPOSED CONCRETE PAVEMENT (6" MIN. THICKNESS)                                                       |
| [Symbol]      | PROPOSED ASPHALT PAVEMENT                                                                            |
| [Symbol]      | PROPOSED DECORATIVE PAVERS                                                                           |
| [Symbol]      | STABILIZED WALKING PATH PER CITY S.C.D. NO. M-10                                                     |
| [Symbol]      | PROPOSED PAINTED DIRECTIONAL ARROW                                                                   |
| [Symbol]      | PROPOSED CONCRETE WHEELSTOP - "COMPACT" LETTERING TO BE PAINTED ON FRONT                             |
| [Symbol]      | PROPOSED TRAFFIC SIGN POST                                                                           |
| [Symbol]      | PARKING COUNTER (NUMBER INCLUDES STANDARD, COMPACT, HANDICAP, AND MOTORCYCLE PARKING)                |
| [Symbol]      | MOTORCYCLE PARKING SPACE (4' x 10')                                                                  |
| [Symbol]      | COMPACT PARKING SPACE (8.5' x 17.5', MINIMUM)                                                        |
| [Symbol]      | PRIVACY FENCE (SEE DETAIL THIS SHEET)                                                                |
| [Symbol]      | PROPOSED ELECTRICAL TRANSFORMER LOCATION                                                             |
| [Symbol]      | PROPOSED A/C CONDENSER LOCATION                                                                      |
| [Symbol]      | INDICATES LIMITS OF NATURAL PRESERVATION AREA                                                        |

| PROPERTY INFORMATION TABLE     |                                         |
|--------------------------------|-----------------------------------------|
| APPLICATION NAME               | VILLA NOVA                              |
| SDRC CASE NUMBER               | 21-80000005                             |
| PROPERTY ADDRESS               | 1040 W. HERBERT STREET, PORT ORANGE, FL |
| PROPERTY IDENTIFICATION NO.    | 63050400040 & 633701240011              |
| EXIST/PROPOSED ZONING DISTRICT | R-3H (MULTIFAMILY RESIDENTIAL)          |
| EXISTING USE                   | VACANT                                  |
| PROPOSED USE                   | MULTIFAMILY RESIDENTIAL                 |
| FEMA FLOOD ZONE DESIGNATION    | ZONES 'X' & 'AE' (ELEV. 7 NAVD-88)      |
| TOTAL GROSS SITE AREA          | +/- 317,863 SF (7.30 AC)                |

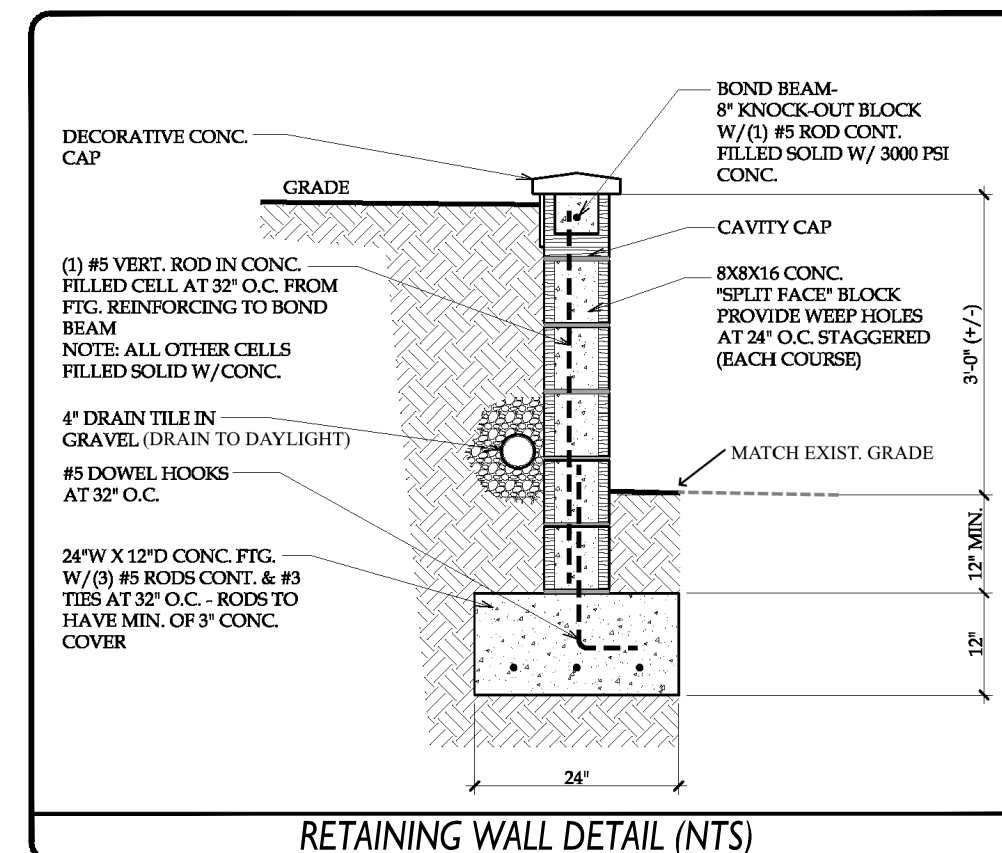
| 'R-3H' DEVELOPMENT REGULATIONS  |                             |                   |
|---------------------------------|-----------------------------|-------------------|
| STANDARD                        | REQUIRED                    | PROVIDED          |
| MINIMUM LIVING AREA / D.U.      | 600 SF                      | ± 1,479 SF        |
| MAXIMUM BUILDING COVERAGE       | 50.0%                       | 21.0 % (*)        |
| MINIMUM OPEN SPACE              | 50.0%                       | 54.5 % (**)       |
| FRONT BUILDING SETBACK          | 30.0 FT                     | 30.0 FT           |
| SIDE BUILDING SETBACK           | 25.0 FT / 35.0 FT (3-STORY) | 25.0 FT / 35.0 FT |
| REAR BUILDING SETBACK           | 25.0 FT / 35.0 FT (3-STORY) | 25.0 FT / 35.0 FT |
| MAXIMUM BUILDING HEIGHT         | 45.0 FT                     | 35.0 FT           |
| VEHICULAR USE LANDSCAPING       | 10.0%                       | 19.3 % (***)      |
| EXISTING TREE CONSERVATION AREA | 15.0 %                      | 19.4 % (****)     |

(\*) = ROOF AREA / SITE AREA = 66,810 SF / 317,863 SF  
(\*\*) = [SITE AREA - (ROOF AREA + PAVEMENT AREA)] / SITE AREA  
= [317,863 SF - (66,810 SF + 77,848 SF)] / 317,863 SF  
(\*\*\*) = [LANDSCAPED VEHICULAR USE AREA / TOTAL VEHICULAR USE AREA  
= [17,312 SF / 89,523 SF]  
(\*\*\*\*) = 61,624 SF CONSERVATION / 317,863 SF

| OFF-STREET PARKING CALCULATIONS           |                                                                                              |             |
|-------------------------------------------|----------------------------------------------------------------------------------------------|-------------|
| PARKING DEMAND                            | REQUIRED                                                                                     | PROVIDED    |
| RESIDENT PARKING (3-BEDROOM UNITS)        | = 77 UNITS x 2.0 SPACES / UNIT = 154 SPACES                                                  | 154 SPACES  |
| VISITOR PARKING (MULTIFAMILY RESIDENTIAL) | = 77 UNITS x 0.25 SPACES / UNIT = 20 SPACES                                                  | + 20 SPACES |
|                                           | = 174 TOTAL PARKING SPACES                                                                   | 174 SPACES  |
| NO. OF COMPACT PARKING SPACES             | = NO. OF GUEST PARKING SPACES x 0.25<br>= 20 SPACES x 0.25<br>= 4 COMPACT PARKING SPACES     | 2 SPACES    |
| NO. OF MOTORCYCLE PARKING SPACES          | = NO. OF TOTAL PARKING SPACES x 0.05<br>= 174 SPACES x 0.05<br>= 8 MOTORCYCLE PARKING SPACES | 1 SPACE     |
| NO. OF BICYCLE PARKING SPACES             | = NO. OF PARKING SPACES x 0.10<br>= 174 SPACES x 0.10<br>= 18 BICYCLE PARKING SPACES         | 20 SPACES   |

| PLAN NOTES LEGEND |                                                                                                                  |
|-------------------|------------------------------------------------------------------------------------------------------------------|
| ①                 | PROPOSED BICYCLE RACK (5 BIKE CAPACITY)                                                                          |
| ②                 | TURNAROUND FOR FIRE PROTECTION AND EMERGENCY VEHICLES                                                            |
| ③                 | STORMWATER MANAGEMENT AREA (SEE SHEET C-4.0 FOR ADDITIONAL DETAIL)                                               |
| ④                 | PROPOSED DRAINAGE EASEMENT - 20' MIN. WIDTH CENTERED ON DRAINAGE PIPES & 10' MIN. WIDTH OUTSIDE POND TOP OF BANK |

| STRIPING/SIGNAGE LEGEND |                                                                  |
|-------------------------|------------------------------------------------------------------|
| DY                      | (2) 4" YELLOW STRIPES (THERMO) W/ 4" GAP BETWEEN STRIPES         |
| SB                      | 24" WHITE THERMOPLASTIC STOP BAR                                 |
| CW1                     | CROSSWALK - 12" WHITE REFLECTIVE THERMO STRIPES @ 6 FT O/C       |
| CW2                     | CROSSWALK - 12" WHITE REFLECTIVE THERMO STRIPES @ 8 FT O/C       |
| RL1                     | STOP SIGN (24"x24") PER MUTCD, LATEST EDITION                    |
| R3-2                    | RIGHT ONLY SIGN (24"x30") PER MUTCD, LATEST EDITION              |
| TP                      | MOTORCYCLE PARKING ONLY SIGN (12"x18") PER MUTCD, LATEST EDITION |
| R2-1                    | 15 MPH SPEED LIMIT SIGN (12"x18") PER MUTCD, LATEST EDITION      |
| R7-1                    | NO PARKING ANYTIME (12"x18") PER MUTCD, LATEST EDITION           |
| NP                      | 6" YELLOW PAINT BORDER W/ 12" YELLOW @ 45° - 4" O/C INTERNAL     |



| REVISIONS |      |             |
|-----------|------|-------------|
| REV       | DATE | DESCRIPTION |
| 1         | ---  | ---         |
| 2         | ---  | ---         |
| 3         | ---  | ---         |
| 4         | ---  | ---         |
| 5         | ---  | ---         |
| 6         | ---  | ---         |
| 7         | ---  | ---         |
| 8         | ---  | ---         |
| 9         | ---  | ---         |
| 10        | ---  | ---         |

**BARDEZ**

5048 POINTE EMERALD LANE, BOCA RATON, FL 33486  
(O) 561-465-5949 | (e) nbarnett@bardezco.com

**PROJECT DESCRIPTION**

**VILLA NOVA**

MULTIFAMILY RESIDENTIAL DEVELOPMENT  
ADDRESS: 1040 HERBERT STREET, PORT ORANGE, FL 32129  
PARCEL ID NUMBERS: 63050400040 & 633701240011  
PREPARED FOR: VILLA NOVA 8.0, LLC

**CERTIFICATION**

DATE: 12-21-2022

**NOEL BARNETT**  
PROFESSIONAL ENGINEER  
FL LICENSE NO. 72006  
FL BUSINESS C.A. NO.: 32223

**SHEET TITLE**

**SITE PLAN**

**SHEET ID**

**C-3.0**









# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/21/2023

---

**SUBJECT:** (F15) Approval of Proportionate Fair-Share Agreement for the Villa Nova Townhomes Site Plan (Case No. 21-80000005)

**DEPARTMENT:** Community Development

**GOAL:** 2 - Infrastructure

---

**RECOMMENDED MOTION:** Move to approve the Proportionate Fair-Share Agreement for Villa Nova Townhomes (Case No. 22-80000011) and authorize the Mayor and City Clerk to execute all necessary documents.

---

**SUMMARY:** The Villa Nova Townhome development is proposed at 1040 Herbert Street (see location map below). The proposed Proportionate Fair-Share Agreement has been prepared in conjunction with the site plan for developing 77 townhomes on  $\pm 7.3$ -acres, along with associated on-site and off-site improvements. The Transportation Impact Technical Memorandum completed by Bardez, LLC, anticipates impacts on Williamson Boulevard and the intersection of Williamson Boulevard and Taylor Road upon completion of the development. The memorandum was prepared according to the City of Port Orange's adopted guidelines and was reviewed and approved by the City of Port Orange.

The Proportionate Fair-Share Agreement documents the number of vested trips being used by the proposed development and mitigates the impact of the new traffic generated from the development. Based on the memorandum prepared, the property owner (Villa Nova 8, LLC) is required to make a \$29,113 fair-share mitigation payment for the 39 PM peak hour trips generated per day from the development. The fair-share mitigation payment includes payment of \$25,447 to the City of Port Orange for the design and construction of the Yorktowne Boulevard extension and \$3,666 for the completed Summer Trees Road project. The Proportionate Fair-Share Agreement has been executed by the property owner and is attached for review.

The Villa Nova Townhome development site currently has a Future Land Use designation of Urban High-Density Residential (8-16 units/acre) and is currently zoned R-3H Multi-Family Residential (up to 16 units/acre), which allows for the proposed residential development and density. The Villa Nova Townhome development consists of 77 units on  $\pm 7.3$  acres, with a density of 10.5 units/acre. The site plan for the proposed project has been reviewed at the staff level and may be approved once all Land Development Code requirements have been met and the required fair-share mitigation payment has been received.



PRESENTER: Tim Burman, Penelope Cruz

# ATTACHMENTS:

|    |                                    |                                         |
|----|------------------------------------|-----------------------------------------|
| 1. | Proportionate Fair Share Agreement | Proportionate Fair Share Agreement .pdf |
|----|------------------------------------|-----------------------------------------|

|                |                              |
|----------------|------------------------------|
| Tracee Cody    | Created/Initiated - 3/3/2023 |
| Tim Burman     | Approved - 3/6/2023          |
| John McKinney  | Approved - 3/7/2023          |
| Shannon Balmer | Approved - 3/9/2023          |
| Wayne Clark    | Approved - 3/14/2023         |
| Tracee Cody    | Final Approval - 3/14/2023   |

## CONCURRENCY AND FAIR SHARE AGREEMENT (Transportation)

This Concurrency and Fair Share Agreement (the "Agreement") made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between **CITY OF PORT ORANGE, FLORIDA**, a Chartered Florida Municipality located in Volusia County, Florida, 1000 City Center Circle, Port Orange, Florida 32129 (the "City"); and **Villa Nova 8.0, LLC**, a Florida limited company whose mailing address is 3817 S. Nova Rd., Ste 104-163, Port Orange, FL 32127 (the "Developer").

### RECITALS

WHEREAS, attached to this Concurrency and Fair Share Agreement ("Agreement"), are exhibits describing in greater detail the parties hereto, real property, traffic study and transportation improvements which are referenced throughout this Agreement. The parties agree that all attached exhibits have been reviewed and previously approved by the parties and their respective professional consultants, and all cumulative information set forth or otherwise referenced therein is deemed incorporated herein by reference; and

WHEREAS, unless otherwise stated, the Developer is the owner of the real property described within the Project Data on the attached **Exhibits "A-1" and "A-2"** (the "Project"); Developer desires to permit, develop and, if appropriate, plat the real property described and, in addition to other requirements, is seeking to comply with the City's concurrency and proportionate fair share requirements for roads/traffic circulation under Chapters 4 and 21 of the City's Land Development Code ("Traffic Concurrency"); and

WHEREAS, Developer desires to develop 77 townhomes along with associated on-site and off-site improvements on seven and three-tenths ( $\pm 7.3$ ) acres of real property more particularly described in **Exhibit "B-1,"** attached hereto and incorporated herein by reference (Villa Nova Townhomes), which will generate 39 P.M. Peak Hour Trips;

WHEREAS, the transportation improvements described in the attached Exhibits ("Concurrency Improvements") are required in order for the Project to meet minimum concurrency requirements for roads/traffic circulation to support the proposed Project(s) or, in the alternative, said Concurrency Improvements have been identified as mitigating existing transportation deficiencies within the area impacted by the Project; and

WHEREAS, the City and the Developer agree that the new capacity created by the Concurrency Improvements may not be the actual excess capacity of the roadway, due to the need to account for vested trips, pursuant to the City's Land Development Code, from previously approved, but unbuilt, developments; and

WHEREAS, through the Transportation Impact Analysis, certain transportation impacts were identified within the area impacted by the Project and payment for such site related improvements are set forth in this Agreement.;

WHEREAS, the City has constructed or anticipates construction of Concurrency Improvements as set forth in the attached Exhibits;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the City and Developer, hereby agree as follows:

1. **Incorporation of Recitals.** The presumptions and facts stated above in the recitals are incorporated by reference herein and deemed by the parties to be true, correct and constitute a material part of this Agreement.
2. **Offsite Construction.** Except as otherwise agreed herein, the City agrees to construct, or to have constructed, the "Concurrency Improvements." Construction of the Concurrency Improvements will commence and be complete to meet concurrency requirements or mitigate transportation deficiencies within the Project area, in accordance with Chapter 4 of the City's Land Development Code, unless delay is caused for reasons outside of City's control, in which case construction will commence as soon as is reasonably practical. The City, or its designee, will be responsible for the design of the Concurrency Improvements, which design will be in accordance with the illustration shown on the Exhibit(s). All planning, permitting, and construction will be subject to the review and approval by the Florida Department of Transportation and, if applicable, the County of Volusia, and will comply with the standards and requirements established by the appropriate governmental entities. Developer will have no responsibility for maintenance or upkeep of the Concurrency Improvements.
3. **Fair-Share Contributions.** Pursuant to Section 8, Article V, Chapter 21, Land Development Code, City of Port Orange, Florida, a proportionate fair-share payment for concurrency impacts may include, separately or collectively, private funds, contributions of land, contribution of facilities, and construction of facilities ("Total Fair-Share Contribution"). The Developer shall take the following actions to address Concurrency Improvements identified by the City as a result of the impact of the development:
  - (a) **Proportionate Fair Share.** In connection with the City's construction of Concurrency Improvements, as set forth in **Exhibits "A-2"**, Developer shall pay to the City a fair share assessment in the amount of the Total Fair Share Contribution, as defined in **Exhibit A-1**, hereinafter "Total Fair Share Contribution", or, if applicable, the difference between the Total Fair-Share Contribution, and the value of the Construction Improvements, as described in subsection (b) of this Section 3, pursuant to Section 8(f) , Article V, Chapter 21, Land Development Code, City of Port Orange, hereinafter the "Fair Share Payment." Developer agrees to pay the Fair Share Payment to the City in the form of a certified check payable to the City of Port Orange in an amount as determined in **Exhibit "A-2"**. The City shall apply the Fair Share Payment to the Concurrency

Improvements described in **Exhibit “A-2”**. Upon the City’s receipt of the payment from the Developer, the funds shall become the property of the City and the right to request a refund is waived. The payment must be deposited with the City within 30 days of the city council’s approval of this Agreement and shall be required prior to the issuance of a Development Order for the Development.

(b) Construction of Improvements. If applicable, Developer agrees to construct, or to have constructed, a portion or all of the "Concurrency Improvements," referenced in **Exhibits “A-2”** as full or partial payment towards the Total Fair-Share Contribution, in accordance with Section 8, Article V, Chapter 21, Land Development Code, City of Port Orange, Florida. Construction of the Concurrency Improvements will commence and be complete to meet concurrency requirements or mitigate transportation deficiencies within the Project area, in accordance with Chapters 4 and 21 of the City’s Land Development Code, unless delay is caused for reasons outside of City's control, in which case construction will commence as soon as is reasonably practical. All planning, permitting, and construction will be subject to the review and approval by the Florida Department of Transportation and, if applicable, the County of Volusia, and will comply with the standards and requirements established by the appropriate governmental entities. Developer will have no responsibility for maintenance or upkeep of the Concurrency Improvements. Additionally, the Concurrency Improvements to be constructed by the Developer shall be complete prior to the issuance of Certificate of Occupancy. For purposes of this Agreement, "reasons outside of Developer's control" shall mean: delays or stoppage caused by acts of God, war, inability to obtain labor or materials or reasonable substitutes therefore, inability to receive governmental permits and approvals newly enacted governmental regulations or controls, the application of existing regulations or controls in a manner which Developer could not have foreseen or other similar matters or causes.

(b) If the City chooses to apply the proportionate fair-share payment to an alternative improvement to mitigate transportation deficiencies within the area impacted by the project as indicated on the **Exhibit “A-2”** or, if applicable, accept the construction of improvements, separately or collectively, then, unless otherwise stated herein, said mitigating payment and/or completed and approved by the City construction improvements are accepted as full payment for the Total Fair Share Contribution, as defined in **Exhibit “A-1”**.

(c) If applicable, once construction of improvements offered as full or partial payment toward the Total Fair-Share Contribution are complete, Developer shall provide actual costs of the improvements, certified, sealed, and signed by the engineer of record for the Project. If actual costs are less than the estimated costs of constructing improvements previously provided for consideration toward the Total Fair-Share Contribution, then Developer shall pay the outstanding balance owed on the Total Fair-Share Contribution. Any additional monies owed and certification of actual costs shall be provided prior to the first Certificate of Occupancy.



(d) The City and the Developer acknowledge that other entities, including but not limited to the Florida Department of Transportation and the County of Volusia, may participate in and contribute financially to one or more Concurrency Improvements as referenced herein, and hereinafter "Project Participant."

4. **Vested Rights in Traffic Concurrency.** The City agrees that by paying the City the Fair Share Payment, and by receiving a Development Order for the Project, Developer will be deemed to have satisfied the City's Traffic Concurrency requirements for the Project and that the Project shall be fully vested with Traffic Concurrency for purposes of development and related Project construction.
5. **Entitlement to Impact Fee Credits.** Nothing herein is intended to alter, reduce or otherwise waive Developer's right to receive impact fee or capacity credits in connection with the Fair Share Payment to the extent that Developer would be entitled to receive such credits. It is the intent of the parties that if it is determined that any portion of the road segment where the Concurrency Improvements are to be constructed is eligible for impact fee credits under the Volusia County impact fee program, then the City shall not object to the Developer seeking a reimbursement from Volusia County to the extent that the Developer has paid impact fees in respect to this Phase.
8. **Application of Agreement Limited to the Project.** Nothing herein is intended to bind the City in determining the additional trip capacity provided by the construction of the Concurrency Improvements beyond that provided to the Project in connection with the Fair Share Payment and the City expressly reserves the right to determine such available excess capacity for all future developments within its jurisdiction.
9. **Miscellaneous.**
  - A. **Attorney's Fees.** In the event of litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to collect from the other party reasonable attorney's fees and costs of suit.
  - B. **Venue and Choice of Law.** In the event of litigation regarding the terms of this Agreement or documents executed as a result of this Agreement, venue of the action shall be in Volusia County and Florida law shall apply. Trial shall be non-jury for any issues subject to trial.
  - C. **Waiver.** The waiver by a party of any terms or conditions of this Agreement or any breach hereof shall not constitute a waiver of any other term or condition or any subsequent breach of this Agreement.
  - D. **Successors.** This Agreement shall be binding on the parties hereto, their heirs, administrators, executors, successors in interest and assigns.
  - E. **Construction of Contract.** The parties hereto agree that they have all participated in the drafting of this Agreement. Therefore, the presumption that any ambiguity

or vagueness in the construction of this Agreement shall be construed against the drafter shall not apply. The terms and provisions of the Agreement shall be applied equally to each party and the interpretation of the Agreement shall be guided by the express intent of the parties as determined by the overall effect of the provisions herein.

- F. Expiration. This Agreement shall expire after Developer's contribution of the Proportionate Fair Share, as set forth in Section 3 of this Agreement.
- G. Amendments. Amendment to this Agreement shall not be effective unless in writing and signed by all record title property owners of the land for which the amendment is to be applied (but excluding the record title property owners for land that is unaffected by the amendment), and the City. Before amending this Agreement, the City shall conduct one or more public hearings. At the City's option, one of these public hearings may be held by the City Planning Commission.
  - i. Notice of intent to consider an amendment to this Agreement shall be published by the City at the Developer's expense in a newspaper of general circulation and readership in Volusia County, Florida.
  - ii. If applicable, notice of intent to consider an amendment shall comply with the requirements of Section 166.041(3)(c), Florida Statutes (2021), as amended from time to time.
  - iii. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.
  - iv. Notices of intent to consider an amendment shall specify the location of the Property subject to the proposed amendment, the nature of the proposed amendment, and such other information as the City Staff shall reasonably deem pertinent and appropriate.
  - v. All notices shall specify a place where a copy of the proposed amendment can be obtained.
- H. Conflicts. Developer agrees to be bound by all City codes and ordinances that are not in conflict with the provisions of this Agreement.
- I. Recording. Developer shall record a copy of this Agreement, at its sole cost and expense, with the Public Records of Volusia County, Florida.
- J. Binding Nature and Covenants Running With the Land. The provisions of this Agreement shall be binding upon the parties hereto, and upon all successors in interest in the subject real property. And further, the provisions of this Agreement

shall constitute covenants running with the land applicable to all of the subject real property comprising the referenced, "Project."

K. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, by and through the duly authorized representatives, on the date set forth hereinbelow.

WITNESSES: **DEVELOPER:**  
**Villa Nova 8.0, LLC**, a Florida limited liability company

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ By: \_\_\_\_\_  
Ursula Amon, CFO  
Date: \_\_\_\_\_, 2023

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [ ] online notarization this \_\_\_\_\_ day of \_\_\_\_\_ 2023, by Ursula Amon, CFO of Villa Nova 8.0, LLC. She ☐ is personally known to me OR ☐ produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
*Printed, typed or stamped name, commission and expiration of commission term*

WITNESSES:

**CITY OF PORT ORANGE**, a Florida  
municipal corporation

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Donald O. Burnette, Mayor

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Attest: \_\_\_\_\_  
Robin L. Fenwick, MMC, City Clerk

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of **[XX]** physical presence or [ ] online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Donald O. Burnette, Mayor, and Robin L. Fenwick, City Clerk, both of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledge that each is duly authorized to execute the foregoing agreement on behalf of the city. They are personally known to me.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
Printed Name, Commission Seal and Term Expiration Date



**Development Exhibit A – 1**  
Concurrency and Fair-Share Agreement  
Transportation Improvement (“TI”)

**Development Data:**

|                     |                                                      |
|---------------------|------------------------------------------------------|
| Development Name:   | Villa Nova Townhomes                                 |
| Site Address:       | 1040 Herbert Street                                  |
| City Case No.       | 21-80000005                                          |
| Zoning District     | R-3H Multi-Family Residential (up to 16 units/acres) |
| TIA Report Date     | September 25, 2022                                   |
| TIA Prepared by:    | Bardez, LLC                                          |
| Est. Date of Impact | 2024                                                 |

**Developer:**

|                  |                                         |
|------------------|-----------------------------------------|
| Corporate Entity | Villa Nova 8.0, LLC                     |
| Contact Person   | Ursula Amon                             |
| Mailing Address: | 4017 Oriole Ave., Port Orange, FL 32127 |

**Land Owner:**

|                  |                                         |
|------------------|-----------------------------------------|
| Corporate Entity | Villa Nova 8.0, LLC                     |
| Contact Person   | Ursula Amon                             |
| Mailing Address: | 4017 Oriole Ave., Port Orange, FL 32127 |

**Real Property**

|                   |                                                                                   |
|-------------------|-----------------------------------------------------------------------------------|
| Total Acreage:    | +/- 7.3 acres                                                                     |
| Parcel Number(s): | 6337-01-24-0011                                                                   |
| Legal Description | Legible real property legal description and sketch attached as <b>EXHIBIT B-1</b> |

**Development Exhibit A – 2**  
**Concurrency and Fair-Share Agreement**  
**Transportation Improvement (“TI”)**

**Traffic Impact Analysis**

|                           |                      |
|---------------------------|----------------------|
| Development Name:         | Villa Nova Townhomes |
| City Case No.:            | 21-80000005          |
| TIA Report Date:          | September 25, 2022   |
| TIA Prepared by (Firm):   | Bardez, LLC          |
| Estimated Date of Impact: | 2024                 |

**Contribution Calculations: Adjusted March 3, 2023**

| Impacted Intersections/Road Segments per Transportation Master Concurrency Plan | TI Stage I Reservation Deposit Estimated Cost | TI Stage II Project Cost | TI Stage III Actual Cost | DT/CI Ratio | % of Cost | Subtotal Note N/A if Not Impacted <sup>[3]</sup> | Contribution with Multiplier* <sup>[3]</sup> |
|---------------------------------------------------------------------------------|-----------------------------------------------|--------------------------|--------------------------|-------------|-----------|--------------------------------------------------|----------------------------------------------|
| Summer Trees Road Extension [1]<br>OR Book 7486 Page 1855                       | N/A                                           | N/A                      | \$3,152,938.60           | 1/860       | 0.12      | N/A                                              | \$3,666                                      |
| Yorktowne Boulevard Extension [1] & [2]<br>OR Book 7486 Page 1855               |                                               |                          |                          |             |           |                                                  |                                              |
| 1. Mitigation – Williamson Boulevard                                            | N/A                                           | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |
| a. Caribbean Pine Way to Madeline Ave.                                          | \$6,700,000                                   | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |
| b. Madeline Ave to Willow Run Blvd.                                             | \$5,737,230                                   | N/A                      | N/A                      | 3/1870      | 0.05      | N/A                                              | \$16,880                                     |
| c. Willow Run Blvd. to Town West Blvd.                                          | \$16,020,000                                  | N/A                      | N/A                      | 1/1870      | 0.16      | N/A                                              | \$8,567                                      |
| d. Town West Blvd. to 4L Terminus N of PO Pavilion                              | \$4,391,460                                   | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |
| 2. Mitigation - Taylor Road (Crane Lakes Blvd. to Summer Tree Rd.)              | N/A                                           | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |
| 3. Mitigation - Taylor Road (Dunlawton Ave. to Clyde Morris Blvd.)              | \$8,300,000                                   | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |

|                                 |     |     |     |
|---------------------------------|-----|-----|-----|
| *Financial Guarantee Multiplier | 1.1 | 1.1 | 1.0 |
|---------------------------------|-----|-----|-----|

|                                      |                 |
|--------------------------------------|-----------------|
| <b>Total Fair-Share Contribution</b> | <b>\$29,113</b> |
|--------------------------------------|-----------------|

Fair Share Projects Dunlawton/Taylor at I-95(PRVCF ORB 5709/4728), Dunlawton/Clyde Morris (PRVCF ORB 5709/4732, and Town West/Williamson (PVRCF 5709/4736) are completed or fully funded.

<sup>[1]</sup> City Project Participant - *Eligible for City trans. impact fee credits*

<sup>[2]</sup> Per Chapter 4, Section 4 of the LDC, approval to a development project is subject to mitigating adverse impacts to Williamson Boulevard and Taylor Road as indicated in the TIA. The impacts resulting from the above referenced project will be resolved through a mitigation payment to the Yorktowne Boulevard Extension Fair-Share project.

<sup>[3]</sup> Rounded up to nearest whole dollar

Planning Review: \_\_\_\_\_ Date \_\_\_\_\_



Exhibit B-1

A part of Lot 1, Block 24, Map of Dun-Lawton, according to the map or plat thereof, as recorded in Plat Book M, Page(s) 187, of the Public Records of Volusia County, Florida, said Parcel being more particularly described as follows:

As a Point of Beginning, commence at the Southwest corner of said Lot 1; thence run North 25°29'38" West along the Westerly line of Dun-Lawton Subdivision, a distance of 628.12 feet; thence North 64°29'22" East along the Southerly Right-of-Way of West Herbert Street, a distance of 374.23 feet; thence South 26°12'15" East, a distance of 489.98 feet, said line being 200 feet West of and parallel to the West Right-of-Way line of Nova Road (SR 415); thence South 64°45'52" West, a distance of 238.25 feet; thence South 25°29'38" East, a distance of 140.00 feet; thence South 64°45'52" West on the Southerly line of said Lot 1, a distance of 142.06 feet to the Point of Beginning.

Less and Except the following described property:

Commence at the Southwesterly corner of Lot 3, Baltzegar Subdivision as recorded in Map Book 40, Page 193, Public Records of Volusia County, Florida; thence run North 25°13'57" West along the Westerly line of said Lot 3, a distance of 140.00 feet; thence run North 65°59'15" East along the North line of said Lot 3, a distance of 139.32 feet to the Point of Beginning; thence run North 26°00'29" West, a distance of 71.67 feet; thence run North 64°59'15" East, a distance of 100.02 feet; thence run South 26°00'59" East, a distance of 71.67 feet; thence run South 64°59'15" West along the North line of said Lot 3, a distance of 100.02 feet to the Point of Beginning.

Also Less and Except the following described property:

A part of Lot 1, Block 24, Dun-Lawton, as recorded in Map Book "M", Page 187, Public Records of Volusia County, Florida, being more particularly described as follows: Commence at the Southwest corner of aforesaid Lot 1, Block 24, Dun-Lawton; thence North 25°28'46" West, a distance of 608.12 feet to the Point of Beginning; thence continue North 25°28'46" West, a distance of 20.00 feet; thence North 64°13'02" East, a distance of 375.07 feet; thence South 26°12'15" East, a distance of 32.55 feet; thence South 64°13'47" West, a distance of 274.45 feet to a non tangent curve concave Northwesterly having a radius of 415.00 feet, a central angle of 14°04'50", a chord of 101.73 feet, and a chord bearing of South 71°16'12" West; thence along said curve for a arc distance of 101.99 feet to the Point of Beginning.

Also Less and Except the following described property:

Property in Official Records Book 7143, Page 3669, Public Records of Volusia County, Florida, described as follows:

A part of Lot 1, Block 24, Dun-Lawton, as recorded in Map Book "M", Page 187, Public Records of Volusia County, Florida, being more particularly described as follows: Commence at a found X-Cut at the Northwest corner of Parcel ID 37-16-33-21-00-0010; thence South 25°49'07" East, a distance of 12.54 feet to the Point of Beginning; thence South 25°57'45" East, a distance of 385.83 feet; thence South 64°38'33" West, a distance of 75.00 feet; thence North 25°57'42" West, a distance of 385.61 feet; thence North 64°28'17" East, a distance of 75.00 feet to the Point of Beginning.

AND

TRACT 6, TRACT 5 AND THAT PART OF TRACT 4 OF THE REPEAT OF A PORTION OF THE DIVISION OF LOT 5, SECTION 5, TOWNSHIP 16 SOUTH, RANGE 33 EAST, AS RECORDED IN MAP BOOK 34, PAGE 14, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID PARCEL BEING PARTICULARLY DESCRIBED AS FOLLOWS:

AS THE TRUE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF SOUTHERLY RIGHT-OF-WAY LINE OF WEST HERBERT STREET, A 60 FOOT RIGHT-OF-WAY, AS REPLATTED; AND THE EAST LINE OF SAID SECTION 5, THENCE RUN SOUTH 25°29'38" EAST A DISTANCE OF 307.79 FEET; THENCE SOUTH 89°48'05" WEST A DISTANCE OF 270.00 FEET; THENCE SOUTH 00" EAST 40.00 FEET; THENCE SOUTH 89°48'05" WEST 328.09 FEET; THENCE SOUTH 00° 11'55" EAST 98.00 FEET; THENCE SOUTH 89°48'05" WEST 75.00 FEET; THENCE NORTH 00" WEST 236.00 FEET TO THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST HERBERT STREET, A 60 FOOT RIGHT-OF-WAY AS PLATTED IN MAP BOOK 34, PAGE 14, THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY ON AN ARC TO THE RIGHT HAVING A CENTRAL ANGLE OF 06°38'56", A CHORD BEARING OF NORTH 51°40'32" EAST WITH A RADIUS OF 399.63 FEET AND A LENGTH OF 46.38 FEET; THENCE CONTINUING ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST HERBERT STREET ON AN ARC CURVING TO THE RIGHT WITH A COMMON TANGENT TO THE PREVIOUS CURVE HAVING A CENTRAL ANGLE OF 05°48'56" AND A RADIUS OF 944.14 FEET AND A LENGTH OF 95.83 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 60°48'55" EAST A DISTANCE OF 106.23 FEET TO A POINT OF CURVATURE TO THE RIGHT; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ON AN ARC HAVING A CENTRAL ANGLE OF 26°14'40" AND A RADIUS OF 284.07 FEET AND A LENGTH OF 130.12 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 87°03'35" EAST 132.89 FEET TO A POINT OF CURVATURE TO THE LEFT; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ON ARC HAVING A CENTRAL ANGLE OF 06°41'02" AND A RADIUS OF 639.51 FEET AND A LENGTH OF 74.60 FEET TO THE POINT OF BEGINNING.



# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/21/2023

---

**SUBJECT:** (F16) Approval of Proportionate Fair-Share Agreement for the Del Taco Site Plan (Case No. 22-80000011)

**DEPARTMENT:** Community Development

**GOAL:** 2 - Infrastructure

---

**RECOMMENDED MOTION:** Move to approve the Proportionate Fair-Share Agreement for Del Taco (Case No. 22-80000011) and authorize the Mayor and City Clerk to execute all necessary documents.

---

**SUMMARY:** The Del Taco restaurant is proposed to be located at 3813 Nova Road (see location map below). The proposed Proportionate Fair-Share Agreement has been prepared in conjunction with the site plan for the development of a 2,304 square-foot drive-thru restaurant on a +/- 0.75-acre portion of an overall +/- 7.5-acre parcel, along with associated site improvements. Access to the site will be provided from Nova Road and Dunlawton Avenue. The Transportation Impact Technical Memorandum prepared by LTG, Inc. anticipates impacts on the intersection of Williamson Boulevard and Taylor Road. The memorandum was prepared according to the City of Port Orange's adopted guidelines and was reviewed and approved by the City of Port Orange.

Based on the memorandum prepared by LTG, Inc., the developer is required to make a \$10,999 fair-share mitigation payment for the 38 PM peak hour trips generated per day from the development. The Proportionate Fair-Share Agreement is to document the number of vested trips being used by the proposed development and to mitigate the impact of the new traffic generated from the development. The fair-share mitigation payment of \$10,999 to the City of Port Orange is for the completed Summer Trees Road project. The Proportionate Fair-Share Agreement has been executed by the property owner and is attached for review.

The Del Taco site is currently zoned Community Commercial (CC), which allows for the proposed use. The site plan for the proposed project has been reviewed at the staff level and may be approved once all Land Development Code requirements have been met and the required fair-share mitigation payment has been received.



PRESENTER: Tim Burman, Penelope Cruz

## ATTACHMENTS:

|    |                                    |                                         |
|----|------------------------------------|-----------------------------------------|
| 1. | Proportionate Fair Share Agreement | Proportionate Fair Share Agreement .pdf |
|----|------------------------------------|-----------------------------------------|

|                |                              |
|----------------|------------------------------|
| Penelope Cruz  | Created/Initiated - 3/2/2023 |
| Tim Burman     | Approved - 3/2/2023          |
| John McKinney  | Approved - 3/3/2023          |
| Shannon Balmer | Approved - 3/9/2023          |
| Wayne Clark    | Approved - 3/14/2023         |
| Tracee Cody    | Final Approval - 3/14/2023   |

## CONCURRENCY AND FAIR SHARE AGREEMENT (Transportation)

This Concurrency and Fair Share Agreement (the "Agreement") made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between **CITY OF PORT ORANGE, FLORIDA**, a Chartered Florida Municipality located in Volusia County, Florida, 1000 City Center Circle, Port Orange, Florida 32129 (the "City"); and **4SG Development, LLC**, a Florida limited company whose mailing address is 3241 Charon Ave., West Melbourne, FL 32904 (the "Developer").

### RECITALS

WHEREAS, attached to this Concurrency and Fair Share Agreement ("Agreement"), are exhibits describing in greater detail the parties hereto, real property, traffic study and transportation improvements which are referenced throughout this Agreement. The parties agree that all attached exhibits have been reviewed and previously approved by the parties and their respective professional consultants, and all cumulative information set forth or otherwise referenced therein is deemed incorporated herein by reference; and

WHEREAS, unless otherwise stated, the Developer is the Lessor of the real property described within the Project Data on the attached **Exhibits "A-1" and "A-2"** (the "Project"); Developer desires to permit, develop and, if appropriate, plat the real property described and, in addition to other requirements, is seeking to comply with the City's concurrency and proportionate fair share requirements for roads/traffic circulation under Chapters 4 and 21 of the City's Land Development Code ("Traffic Concurrency"); and

WHEREAS, Developer desires to develop a 2,304 square-foot drive-thru restaurant, along with associated site improvements, on a +/- 0.75-acre portion of an overall seven and five-tenths (+/- 7.5) acre parcel, of real property more particularly described in **Exhibit "B-1,"** attached hereto and incorporated herein by reference (Del Taco), which will generate 38 P.M. Peak Hour Trips;

WHEREAS, the transportation improvements described in the attached Exhibits ("Concurrency Improvements") are required in order for the Project to meet minimum concurrency requirements for roads/traffic circulation to support the proposed Project(s) or, in the alternative, said Concurrency Improvements have been identified as mitigating existing transportation deficiencies within the area impacted by the Project; and

WHEREAS, the City and the Developer agree that the new capacity created by the Concurrency Improvements may not be the actual excess capacity of the roadway, due to the need to account for vested trips, pursuant to the City's Land Development Code, from previously approved, but unbuilt, developments; and



WHEREAS, through the Transportation Impact Analysis, certain transportation impacts were identified within the area impacted by the Project and payment for such site related improvements are set forth in this Agreement.;

WHEREAS, the City has constructed or anticipates construction of Concurrency Improvements as set forth in the attached Exhibits;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the City and Developer, hereby agree as follows:

1. **Incorporation of Recitals.** The presumptions and facts stated above in the recitals are incorporated by reference herein and deemed by the parties to be true, correct and constitute a material part of this Agreement.
2. **Offsite Construction.** Except as otherwise agreed herein, the City agrees to construct, or to have constructed, the "Concurrency Improvements." Construction of the Concurrency Improvements will commence and be complete to meet concurrency requirements or mitigate transportation deficiencies within the Project area, in accordance with Chapter 4 of the City's Land Development Code, unless delay is caused for reasons outside of City's control, in which case construction will commence as soon as is reasonably practical. The City, or its designee, will be responsible for the design of the Concurrency Improvements, which design will be in accordance with the illustration shown on the Exhibit(s). All planning, permitting, and construction will be subject to the review and approval by the Florida Department of Transportation and, if applicable, the County of Volusia, and will comply with the standards and requirements established by the appropriate governmental entities. Developer will have no responsibility for maintenance or upkeep of the Concurrency Improvements.
3. **Fair-Share Contributions.** Pursuant to Section 8, Article V, Chapter 21, Land Development Code, City of Port Orange, Florida, a proportionate fair-share payment for concurrency impacts may include, separately or collectively, private funds, contributions of land, contribution of facilities, and construction of facilities ("Total Fair-Share Contribution"). The Developer shall take the following actions to address Concurrency Improvements identified by the City as a result of the impact of the development:
  - (a) **Proportionate Fair Share.** In connection with the City's construction of Concurrency Improvements, as set forth in **Exhibits "A-2"**, Developer shall pay to the City a fair share assessment in the amount of the Total Fair Share Contribution, as defined in **Exhibit A-1**, hereinafter "Total Fair Share Contribution", or, if applicable, the difference between the Total Fair-Share Contribution, and the value of the Construction Improvements, as described in subsection (b) of this Section 3, pursuant to Section 8(f) , Article V, Chapter 21, Land Development Code, City of Port Orange, hereinafter the "Fair Share Payment." Developer agrees to pay the Fair Share Payment to the City in the form of a certified check payable to the City of Port Orange in an amount as determined in **Exhibit "A-2"**. The City shall apply the Fair Share Payment to the Concurrency



Improvements described in **Exhibit “A-2”**. Upon the City’s receipt of the payment from the Developer, the funds shall become the property of the City and the right to request a refund is waived. The payment must be deposited with the City within 30 days of the city council’s approval of this Agreement and shall be required prior to the issuance of a Development Order for the Development.

(b) Construction of Improvements. If applicable, Developer agrees to construct, or to have constructed, a portion or all of the "Concurrency Improvements," referenced in **Exhibits “A-2”** as full or partial payment towards the Total Fair-Share Contribution, in accordance with Section 8, Article V, Chapter 21, Land Development Code, City of Port Orange, Florida. Construction of the Concurrency Improvements will commence and be complete to meet concurrency requirements or mitigate transportation deficiencies within the Project area, in accordance with Chapters 4 and 21 of the City’s Land Development Code, unless delay is caused for reasons outside of City's control, in which case construction will commence as soon as is reasonably practical. All planning, permitting, and construction will be subject to the review and approval by the Florida Department of Transportation and, if applicable, the County of Volusia, and will comply with the standards and requirements established by the appropriate governmental entities. Developer will have no responsibility for maintenance or upkeep of the Concurrency Improvements. Additionally, the Concurrency Improvements to be constructed by the Developer shall be complete prior to the issuance of Certificate of Occupancy. For purposes of this Agreement, "reasons outside of Developer's control" shall mean: delays or stoppage caused by acts of God, war, inability to obtain labor or materials or reasonable substitutes therefore, inability to receive governmental permits and approvals newly enacted governmental regulations or controls, the application of existing regulations or controls in a manner which Developer could not have foreseen or other similar matters or causes.

(b) If the City chooses to apply the proportionate fair-share payment to an alternative improvement to mitigate transportation deficiencies within the area impacted by the project as indicated on the **Exhibit “A-2”** or, if applicable, accept the construction of improvements, separately or collectively, then, unless otherwise stated herein, said mitigating payment and/or completed and approved by the City construction improvements are accepted as full payment for the Total Fair Share Contribution, as defined in **Exhibit “A-1”**.

(c) If applicable, once construction of improvements offered as full or partial payment toward the Total Fair-Share Contribution are complete, Developer shall provide actual costs of the improvements, certified, sealed, and signed by the engineer of record for the Project. If actual costs are less than the estimated costs of constructing improvements previously provided for consideration toward the Total Fair-Share Contribution, then Developer shall pay the outstanding balance owed on the Total Fair-Share Contribution. Any additional monies owed and certification of actual costs shall be provided prior to the first Certificate of Occupancy.

(d) The City and the Developer acknowledge that other entities, including but not limited to the Florida Department of Transportation and the County of Volusia, may participate in and contribute financially to one or more Concurrency Improvements as referenced herein, and hereinafter "Project Participant."

4. **Vested Rights in Traffic Concurrency.** The City agrees that by paying the City the Fair Share Payment, and by receiving a Development Order for the Project, Developer will be deemed to have satisfied the City's Traffic Concurrency requirements for the Project and that the Project shall be fully vested with Traffic Concurrency for purposes of development and related Project construction.
5. **Entitlement to Impact Fee Credits.** Nothing herein is intended to alter, reduce or otherwise waive Developer's right to receive impact fee or capacity credits in connection with the Fair Share Payment to the extent that Developer would be entitled to receive such credits. It is the intent of the parties that if it is determined that any portion of the road segment where the Concurrency Improvements are to be constructed is eligible for impact fee credits under the Volusia County impact fee program, then the City shall not object to the Developer seeking a reimbursement from Volusia County to the extent that the Developer has paid impact fees in respect to this Phase.
8. **Application of Agreement Limited to the Project.** Nothing herein is intended to bind the City in determining the additional trip capacity provided by the construction of the Concurrency Improvements beyond that provided to the Project in connection with the Fair Share Payment and the City expressly reserves the right to determine such available excess capacity for all future developments within its jurisdiction.
9. **Miscellaneous.**
  - A. **Attorney's Fees.** In the event of litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to collect from the other party reasonable attorney's fees and costs of suit.
  - B. **Venue and Choice of Law.** In the event of litigation regarding the terms of this Agreement or documents executed as a result of this Agreement, venue of the action shall be in Volusia County and Florida law shall apply. Trial shall be non-jury for any issues subject to trial.
  - C. **Waiver.** The waiver by a party of any terms or conditions of this Agreement or any breach hereof shall not constitute a waiver of any other term or condition or any subsequent breach of this Agreement.
  - D. **Successors.** This Agreement shall be binding on the parties hereto, their heirs, administrators, executors, successors in interest and assigns.
  - E. **Construction of Contract.** The parties hereto agree that they have all participated in the drafting of this Agreement. Therefore, the presumption that any ambiguity

or vagueness in the construction of this Agreement shall be construed against the drafter shall not apply. The terms and provisions of the Agreement shall be applied equally to each party and the interpretation of the Agreement shall be guided by the express intent of the parties as determined by the overall effect of the provisions herein.

- F. Expiration. This Agreement shall expire after Developer's contribution of the Proportionate Fair Share, as set forth in Section 3 of this Agreement.
- G. Amendments. Amendment to this Agreement shall not be effective unless in writing and signed by all record title property owners of the land for which the amendment is to be applied (but excluding the record title property owners for land that is unaffected by the amendment), and the City. Before amending this Agreement, the City shall conduct one or more public hearings. At the City's option, one of these public hearings may be held by the City Planning Commission.
  - i. Notice of intent to consider an amendment to this Agreement shall be published by the City at the Developer's expense in a newspaper of general circulation and readership in Volusia County, Florida.
  - ii. If applicable, notice of intent to consider an amendment shall comply with the requirements of Section 166.041(3)(c), Florida Statutes (2021), as amended from time to time.
  - iii. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.
  - iv. Notices of intent to consider an amendment shall specify the location of the Property subject to the proposed amendment, the nature of the proposed amendment, and such other information as the City Staff shall reasonably deem pertinent and appropriate.
  - v. All notices shall specify a place where a copy of the proposed amendment can be obtained.
- H. Conflicts. Developer agrees to be bound by all City codes and ordinances that are not in conflict with the provisions of this Agreement.
- I. Recording. Developer shall record a copy of this Agreement, at its sole cost and expense, with the Public Records of Volusia County, Florida.
- J. Binding Nature and Covenants Running With the Land. The provisions of this Agreement shall be binding upon the parties hereto, and upon all successors in interest in the subject real property. And further, the provisions of this Agreement

shall constitute covenants running with the land applicable to all of the subject real property comprising the referenced, "Project."

K. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, by and through the duly authorized representatives, on the date set forth hereinbelow.

WITNESSES: **DEVELOPER:**  
**4SG Development, LLC**, a Florida limited liability company

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ By: \_\_\_\_\_  
Amanpreet Singh, Managing Member  
Date: \_\_\_\_\_, 2023

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [ ] online notarization this \_\_\_\_\_ day of \_\_\_\_\_ 2023, by Amanpreet Singh, Managing Member of \$SG Development, LLC. He ☐ is personally known to me OR ☐ produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
*Printed, typed or stamped name, commission and expiration of commission term*

WITNESSES:

**CITY OF PORT ORANGE**, a Florida  
municipal corporation

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Donald O. Burnette, Mayor

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Attest: \_\_\_\_\_  
Robin L. Fenwick, MMC, City Clerk

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [ ] online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Donald O. Burnette, Mayor, and Robin L. Fenwick, City Clerk, both of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledge that each is duly authorized to execute the foregoing agreement on behalf of the city. They are personally known to me.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
Printed Name, Commission Seal and Term Expiration Date



**Development Exhibit A – 1**  
Concurrency and Fair-Share Agreement  
Transportation Improvement (“TI”)

**Development Data:**

|                     |                           |
|---------------------|---------------------------|
| Development Name:   | Del Taco                  |
| Site Address:       | 3813 Nova Road            |
| City Case No.       | 22-80000011               |
| Zoning District     | Community Commercial (CC) |
| TIA Report Date     | February 1, 2023          |
| TIA Prepared by:    | LTG, Inc.                 |
| Est. Date of Impact | 2024                      |

**Developer:**

|                  |                                              |
|------------------|----------------------------------------------|
| Corporate Entity | 4SG Development, LLC                         |
| Contact Person   | Amanpreet Singh                              |
| Mailing Address: | 3241 Charon Avenue, West Melbourne, FL 32904 |

**Land Owner:**

|                  |                                       |
|------------------|---------------------------------------|
| Corporate Entity | Dunlawton Nova Investors, LLC         |
| Contact Person   | Paul F. Holub, Jr.                    |
| Mailing Address: | PO BOX 730086, Ormond Beach, FL 32173 |

**Real Property**

|                   |                                                                                   |
|-------------------|-----------------------------------------------------------------------------------|
| Total Acreage:    | +/- 0.75-acre portion of an overall +/- 7.5-acre parcel                           |
| Parcel Number(s): | 6309-00-06-0011                                                                   |
| Legal Description | Legible real property legal description and sketch attached as <b>EXHIBIT B-1</b> |



**Development Exhibit A – 2**  
**Concurrency and Fair-Share Agreement**  
**Transportation Improvement (“TI”)**

**Traffic Impact Analysis**

|                           |                  |
|---------------------------|------------------|
| Development Name:         | Del Taco         |
| City Case No.:            | 22-80000011      |
| TIA Report Date:          | February 1, 2023 |
| TIA Prepared by (Firm):   | LTG, Inc.        |
| Estimated Date of Impact: | 2024             |

**Contribution Calculations: Adjusted March 3, 2023**

| Impacted Intersections/Road Segments per Transportation Master Concurrency Plan | TI Stage I Reservation Deposit Estimated Cost | TI Stage II Project Cost | TI Stage III Actual Cost | DT/CI Ratio | % of Cost | Subtotal Note N/A if Not Impacted <sup>[3]</sup> | Contribution with Multiplier* <sup>[3]</sup> |
|---------------------------------------------------------------------------------|-----------------------------------------------|--------------------------|--------------------------|-------------|-----------|--------------------------------------------------|----------------------------------------------|
| Summer Trees Road Extension [1]<br>OR Book 7486 Page 1855                       | N/A                                           | N/A                      | \$3,152,938.60           | 3/860       | 0.36      | N/A                                              | \$10,999                                     |
| Yorktowne Boulevard Extension [1] & [2]<br>OR Book 7486 Page 1855               |                                               |                          |                          |             |           |                                                  |                                              |
| 1. Mitigation – Williamson Boulevard                                            | N/A                                           | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |
| a. Caribbean Pine Way to Madeline Ave.                                          | \$6,700,000                                   | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |
| b. Madeline Ave to Willow Run Blvd.                                             | \$5,737,230                                   | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |
| c. Willow Run Blvd. to Town West Blvd.                                          | \$16,020,000                                  | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |
| d. Town West Blvd. to 4L Terminus N of PO Pavilion                              | \$4,391,460                                   | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |
| 2. Mitigation - Taylor Road (Crane Lakes Blvd. to Summer Tree Rd.)              | N/A                                           | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |
| 3. Mitigation - Taylor Road (Dunlawton Ave. to Clyde Morris Blvd.)              | \$8,300,000                                   | N/A                      | N/A                      | N/A         | N/A       | N/A                                              | N/A                                          |

|                                 |     |     |     |
|---------------------------------|-----|-----|-----|
| *Financial Guarantee Multiplier | 1.1 | 1.1 | 1.0 |
|---------------------------------|-----|-----|-----|

|                                      |                 |
|--------------------------------------|-----------------|
| <b>Total Fair-Share Contribution</b> | <b>\$10,999</b> |
|--------------------------------------|-----------------|

Fair Share Projects Dunlawton/Taylor at I-95(PRVCF ORB 5709/4728), Dunlawton/Clyde Morris (PRVCF ORB 5709/4732, and Town West/Williamson (PVRCF 5709/4736) are completed or fully funded.

<sup>[1]</sup> City Project Participant - *Eligible for City trans. impact fee credits*

<sup>[2]</sup> Per Chapter 4, Section 4 of the LDC, approval to a development project is subject to mitigating adverse impacts to Williamson Boulevard and Taylor Road as indicated in the TIA. The impacts resulting from the above referenced project will be resolved through a mitigation payment to the Yorktowne Boulevard Extension Fair-Share project.

<sup>[3]</sup> Rounded up to nearest whole dollar

Planning Review: \_\_\_\_\_ Date \_\_\_\_\_

**Exhibit B-1**

PARCEL 1: THAT PART OF U.S. LOT 6, SECTION 9, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, LYING EAST OF NOVA ROAD (STATE ROAD 5A) AND SOUTH OF STATE ROAD 415, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: TO FIND THE POINT OF BEGINNING, COMMENCE AT AN IRON PIN LOCATED AT THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SAID NOVA ROAD AND THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD 415, THENCE SOUTH 26°00'21" EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID NOVA ROAD A DISTANCE OF 146.50 FEET TO AN IRON PIN AND THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 26°00'21" EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID NOVA ROAD A DISTANCE OF 227.00 FEET TO AN IRON PIN; THENCE DEPARTING THE EASTERLY RIGHT-OF-WAY LINE OF SAID NOVA ROAD RUN NORTH 63°59'39" EAST A DISTANCE OF 816.44 FEET TO AN IRON PIN, THENCE NORTH 26°00'21" WEST A DISTANCE OF 421.75 FEET TO AN IRON PIN WHICH IRON PIN LIES SOUTH 26°00'21" EAST A DISTANCE OF 27.14 FEET FROM THE NORTH LINE OF U.S. LOT 6, THENCE SOUTH 89°40'57" WEST A DISTANCE OF 226.28 FEET TO AN IRON PIN LOCATED ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 415, THENCE SOUTHWESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY OF STATE ROAD 415, WHICH IS A CURVE TO THE RIGHT WITH A RADIUS OF 2009.86 FEET A DISTANCE OF 456.00 FEET THROUGH A CENTRAL ANGLE OF 12°59'58" (CHORD: 455.02 FEET) TO AN IRON PIN, THENCE DEPARTING THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD 415, SOUTH 26°00'21" EAST A DISTANCE OF 171.18 FEET TO AN IRON PIN, THENCE SOUTH 63°59'39" WEST A DISTANCE OF 174.02 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THAT PART CONVEYED TO STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION BY QUIT CLAIM DEED FILED IN OFFICIAL RECORDS BOOK 3895, PAGE 179, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, AND AS DESCRIBED THEREIN.

PARCEL II: TOGETHER WITH ALL EASEMENTS DESCRIBED HERETO PER RECIPROCAL EASEMENT AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 1994, PAGE 756, FIRST AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT FILED IN OFFICIAL RECORDS BOOK 2076, PAGE 1524, STIPULATED ORDER OF TAKING FILED IN OFFICIAL RECORDS BOOK 3866, PAGE 3274, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.



# CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 3/21/2023

---

**SUBJECT:** (J19) First Reading - Ordinance No. 2023-02 - Amending Chapter 2, Article VI, Division 2, Relating to Purchase and Sale Procedure

**DEPARTMENT:** Finance

**GOAL:** Goal 5 - Fiscal Sustainability

---

**RECOMMENDED MOTION:** Move to approve Ordinance No. 2023-02, amending Chapter 2, Article VI, Division 2, Relating to Purchase and Sale Procedure.

---

**SUMMARY:** The proposed ordinance amends the Code of Ordinances Chapter 2, Article VI, Division 2 - Purchase and Sales Procedure, relating to thresholds, the authority of the city manager, and local purchasing preference. The changes staff has requested in the ordinance amendment are intended to provide more opportunities for competitiveness and efficiencies in the time it currently takes for the procurement of goods and services that are necessary for city operations.

Finance has reviewed the current procurement processes and procedures and recognizes that the current thresholds are below existing levels of procurement and contracting authority based on the Government Finance Officers Association (GFOA) and the National Institute of Government Procurement (NIGP). The proposed changes will improve efficiency and competition. These changes do not affect the council's threshold authority for approval of contract awards, maintain audit requirements, and adhere to all other applicable state statutes and best practices of procurement among municipal governments.

## Summary of Proposed Amendments:

1. Section 2-261 Petty Cash funds and purchasing cards. This section establishes a petty cash fund with the finance department and increases the dollar threshold of the petty cash fund to \$10,000.00. The finance director, with the concurrence of the city manager, will be able to set reasonable amounts and maintain established written procedures for the petty cash fund. This change gives staff more flexibility and provides greater efficiency for the small items that are procured.
2. Section 2-262 Purchase and sales procedures. This section updates the dollar thresholds for the various methods of procurement and clarifies the city manager's purchase authority for securing goods and services. This amendment raises the threshold for open market purchases from \$3,500 to \$5,000 and amends the threshold for three quotations confirmed in writing from \$25,000 to \$100,000. In addition, it

---

clarifies that the formal solicitation procedures apply to purchases exceeding \$100,000. This section maintains the requirement that all purchases exceeding \$25,000 require approval by the city council except as otherwise provided for in the chapter. This is an important change as the cost of most goods and services has increased over the last 30 years since this threshold was created. This change gives staff more flexibility and provides greater efficiencies in the procurement of goods and services required for city operations.

3. Section 2-267 Bidding Requirements. This section updates the list of exemptions from the formal competitive solicitation process for items such as advertisements in trade journals, communication services and required public notices. This change gives staff more flexibility and provides greater efficiencies in the procurement of goods and services that do not lend themselves to the normal competitive solicitation process.

4. Section 2-269 Performance and payment bonds. This section updates the threshold authority of the city manager to waive payment and performance bond requirements on city projects related to the construction of public buildings and completion of a public work when the cost of the work is less than or equal to \$200,00.00. This is in line with the threshold requirements of the Florida Statutes.

5. Section 2-275 Local purchasing preference. This section is stricken in total and written to define how a local vendor is determined by having a valid Business Tax Receipt (BTR) issued by the City of Port Orange. In addition, this amendment establishes that the local vendor preference is used as part of a tiebreaker only during a formal solicitation only. Amending this section reduces redundancy and conflict between the various federal and state award requirements, which do not allow for local purchasing preference.

In summary, all of the proposed amendments are intended to provide for more efficient procurement and sales procedures consistent with state law, while maintaining strong internal controls and compliance with all Federal and State requirements.

**PRESENTER:** John McKinney

---

**ATTACHMENTS:**

---

|    |                      |                          |
|----|----------------------|--------------------------|
| 1. | Ordinance No 2023-02 | Ordinance No 2023-02.pdf |
|----|----------------------|--------------------------|

---

|               |                              |
|---------------|------------------------------|
| John McKinney | Created/Initiated - 3/3/2023 |
| John McKinney | Approved - 3/3/2023          |
| Matthew Jones | Approved - 3/14/2023         |
| Wayne Clark   | Approved - 3/16/2023         |
| Tracee Cody   | Final Approval - 3/16/2023   |

---

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING CHAPTER 2, ARTICLE VI, DIVISION 2, RELATING TO THE PURCHASE AND SALE PROCEDURE AND CONTENTS THEREOF; AMENDING SECTION 2-261 RELATING TO THE PETTY CASH FUND TO INCREASE THE PETTY CASH OPERATING AMOUNT AND PLACE THE PETTY CASH FUND UNDER THE FINANCE DEPARTMENT; AMENDING SECTION 2-262 RELATING TO PURCHASE AND SALES PROCEDURES TO UPDATE THE DOLLAR THRESHOLDS FOR THE VARIOUS METHODS OF PROCUREMENT AND TO CLARIFY THE CITY MANAGER'S PURCHASE AUTHORITY; AMENDING SECTION 2-267 RELATING TO BIDDING REQUIREMENTS TO UPDATE THE LIST OF EXEMPTIONS FROM THE FORMAL COMPETITIVE SOLICITATION PROCESS; AMENDING SECTION 2-269 RELATING TO PERFORMANCE AND PAYMENT BONDS TO RAISE THE THRESHOLD FOR WAIVER THAT MAY BE EXERCISED BY THE CITY MANAGER; AMENDING SECTION 2-275 RELATING TO LOCAL PURCHASING PREFERENCE TO LIMIT LOCAL PREFERENCE TO TIE BREAKERS ONLY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR SCRIVENER'S ERRORS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council recognizes that the proposed amendments relating to the purchase and sale procedure will update to current standards, and clarify ambiguities in an effort to provide more efficiency in the City's purchasing process; and

WHEREAS, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1: The City Council of the City of Port Orange hereby amends the Code of Ordinances, Chapter 2, Article VI, to read as follows:

## Chapter 2 Administration, Article VI Finance

### DIVISION 2 – PURCHASE AND SALE PROCEDURE

***[No changes to Sections 2-256 thru 2-260.]***

#### **Sec. 2-261. Petty cash funds and purchasing cards; authorization and procedures.**

- (a) ~~The finance~~ Each department may establish a petty cash fund not exceeding an operating amount of ~~\$500.00~~ \$10,000.00. The finance director shall, with the concurrence of the city manager, establish appropriate and reasonable operating amounts ~~for such funds within the limit set forth above~~ and establish written procedures for the operation and accounting for such funds within acceptable accounting practices.
- (b) *[No change.]*

#### **Sec. 2-262. Purchase and sales procedures.**

- (a) All supplies, equipment and contractual services, except as otherwise provided herein, when the estimated purchase price thereof ~~shall exceed \$25,000.00~~ \$100,000.00, shall be purchased ~~from the bidder determined by the city council to be the lowest and best responsible bidder pursuant to the formal bidding solicitation procedure.~~
- (b) *[No change.]*
- (c) All supplies, equipment and contractual services, except as otherwise provided herein, when the estimated purchase price thereof is \$25,000.00 or less, may be approved by the city manager or his designee. Purchases up to and including ~~\$3,500.00~~ 5,000.00 are purchased on the open market if the verbal quoted price appears fair and reasonable. ~~Items with a purchase price of more than \$3,500.00 but less than or equal to \$5,000.00 shall be made using two verbal quotations.~~ Items with a purchase price ~~of more than~~ exceeding 5,000.00 but less than or equal to ~~\$25,000.00~~ 100,000.00 shall be made with three written quotations ~~confirmed in writing.~~
- (d) *[No change.]*
- (e) *[No change.]*
- (f) *[No change.]*
- (g) *[No change.]*

***[No change to Sections 2-263 thru 2-266.]***

#### **Sec. 2-267. Bidding requirements.**

- (a) *[No change.]*
- (b) *[Exempt purchases.]* Purchases exceeding \$25,000.00 require approval by city council except for goods and/or services that do not lend themselves to the normal competitive bidding solicitation process, ~~and the city manager has approved waiving the formal bidding requirements, as follows: The following goods and/or~~

services are hereby exempt from the formal solicitation requirement and purchases thereof may be approved by the city manager:

- ~~(1) Maintenance and/or service contracts, on various types of technical equipment that are offered and/or supplied only by the original manufacturer or its representative, or that are required to maintain the integrity of the warranty, or that are part of the rental, lease or lease purchase terms and conditions.~~
  - ~~(2) Materials purchased directly from a producer or publisher, an owner of a copyright, an exclusive agent with the state, a governmental agency or a recognized educational institution.~~
  - ~~(3) Public or regulated utility services or government franchised services.~~
  - ~~(4) Commodities or contractual services determined to only be available from a single source. The city shall electronically or otherwise publicly post a description of the commodities or contractual services for a period of at least seven business days. The posted description must include a request that prospective vendors provide information regarding their ability to supply the commodities or contractual services described.~~
  - ~~(5) Professional services (except as otherwise provided for in Florida law) and contracts for professional services (which include, but are not limited to, services provided by attorneys, accountants, actuaries and financial advisors) may be made or entered into by the city manager without utilizing a sealed competitive method or the written quotations method.~~
  - ~~(6) Admission fees.~~
  - ~~(7) Association fees and professional association dues.~~
  - ~~(8) License fees and agreements.~~
  - ~~(9) Media advertising (i.e., newspaper, radio, television, etc.).~~
  - ~~(10) Permit fees.~~
  - ~~(11) Petty cash replenishment.~~
  - ~~(12) Postage.~~
  - ~~(13) Registration fees.~~
  - ~~(14) State fees (unemployment compensation).~~
  - ~~(15) Travel reimbursement.~~
  - ~~(16) Insurance coverage or claims expenditures as provided in the insurance fund, excepting, however, damage to city-owned property.~~
  - ~~(17) Supplies, equipment and vehicles purchased at a public auction.~~
  - ~~(18) Purchases from other governmental agencies, including school boards, community colleges, federal agencies, and agencies from other states, when the awarded contract by the other entity permits purchases by the city on the same terms, conditions, and prices (or below such prices) and the purchase is considered economically advantageous to the city.~~
  - ~~(19) Purchase, sale, lease or rental of real property.~~
  - ~~(20) Items for resale when purchased in compliance with the restrictions listed below:~~
    - ~~a. Items purchased shall be exclusively for resale;~~
    - ~~b. Items shall include brand name specifications significant to their retail sales appeal; and~~
    - ~~c. Items, after reasonable expected resale, shall result in no cost to the city.~~
- 1) Artistic services.
  - 2) Advertising (including but not limited to newspaper, radio, television, public notice, etc.).



- 3) Commodities or contractual services competitively bid and awarded by other governmental agencies (including GSA) or cooperatives using the same terms and conditions, and prices (or below such prices) and is considered economically advantageous to the city.
  - 4) Communications services (i.e. cable, wireless services, cellular service, internet, etc.).
  - 5) Consultant services other than those regulated by Sec. 287.055, Florida Statutes.
  - 6) Copyrighted materials.
  - 7) Dues, memberships, license fees, and subscriptions for trade or professional organizations.
  - 8) Financial services.
  - 9) Intergovernmental (Cooperative) Pricing Agreements in accordance with Chapter 2, Article VI, Sec. 2-268, of the City Code of Ordinances.
  - 10) Medical or health services related to employment with the city.
  - 11) Insurance, including but not limited to liability, property, medical, and workers' compensation or claims expenditures.
  - 12) IT software and related/associated hardware (For compatibility with existing hardware/software).
  - 13) IT software license renewals and maintenance.
  - 14) Legal services including but not limited to attorneys, paralegals, expert witnesses, interpreters, translation services, mediators, arbitrators, magistrates and court reporters.
  - 15) Permit fees.
  - 16) Postage and other delivery services.
  - 17) Sole/Single source of goods or services.
  - 18) Standardized equipment and annual maintenance, repairs, and support costs thereof.
  - 19) Temporary workers.
  - 20) Title services, including but not limited to title searches, title commitments, ownership and encumbrance reports, and closing services.
  - 21) Used or pre-owned equipment, supplies, and vehicles, including but not limited to supplies, equipment, and vehicles purchased or sold at public auction.
  - 22) Utilities.
  - 23) Workshops, continuing education, and seminars – costs associated with registration, attendance, and training, authorized hospitality expenses, fees and costs of job-related travel as authorized by city budget.
- (c) *[No change.]*
- (d) *[No change.]*
- (e) *[No change.]*

***[No change to Section 2-268.]***

**Sec. 2-269. Performance and payment bonds.**

- (a) *[No change.]*
- (b) The city council delegates to the city manager the authority to waive, in whole or in part, the payment and performance bond requirements on city projects for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work, unless otherwise required by law, and when the cost of the work to be completed is estimated to be less than or equal to ~~\$100,000~~ \$200,000.

***[No change to Sections 2-270 thru 2-274.]***

**Sec. 2-275. Local purchasing preference.**

- (a) A local vendor is a respondent to a solicitation, who as of the date of the solicitation opening, has a valid Business Tax Receipt (BTR) issued by the city to do business in the city which authorizes the vendor to provide the goods, services, or construction to be purchased and has a physical address located within the corporate boundaries of the city from where the vendor operates or performs business. A post office box cannot be used to establish a physical address.
  - (b) Tied bid preference. In case of a tie between a local vendor and a non-local vendor, the local vendor shall prevail, except where federal or state law, or any other funding source, mandates to the contrary.
  - (c) Misrepresentation prohibited; penalty. Any business that misrepresents the local vendor status of its firm in a proposal or bid submitted to the city shall lose the privilege to claim preference status, and shall lose eligibility to claim local preference status for a period of one year.
  - (d) Local preference not required. This section shall not be deemed to require the granting of a local preference, and nothing herein prohibits the award of a contract to a non-local vendor where such award is in the public interest.
- ~~(a) Purpose.~~ The city annually spends significant dollars on purchasing goods and services, and the dollars used in making those purchases are derived, in large part, from taxes, fees, and utility revenues paid by businesses located within the City of Port Orange. The city council has determined that funds generated in the community should, to the extent possible, be placed back into the local economy. Therefore, the city council has determined that it is in the best interest of the city to give a preference to local businesses consistent with the process set forth in this section.
- ~~(b) Definitions.~~ The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- ~~Florida business~~ means a business having its headquarters and principal place of business within the State of Florida, and not within Volusia County, at least 12 months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the city's satisfaction, demonstrating the physical business presence of the firm within the limits of the State of Florida.
- ~~Local business~~ means a Port Orange business, Volusia County business, or Florida business as defined herein.
- ~~Port Orange business~~ means a business having its headquarters and principal place of business within the City of Port Orange at least 12 months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the city's satisfaction, demonstrating the physical business presence of the firm within the limits of the City of Port Orange.
- ~~Principal place of business~~ means the nerve center or the center of overall direction, control, and coordination of the activities of the business. If the business has only one business location, such business location shall be its principal place of business.
- ~~Volusia County business~~ means a business having its headquarters and principal place of business within the County of Volusia, and not within the City of Port Orange, at least 12 months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the city's satisfaction, demonstrating the physical business presence of the firm within the limits of Volusia County.
- ~~(c) Local preference process.~~ Except where federal or state law, or any other funding source, mandates to the contrary, the city shall give preference to local businesses in the following manner:
- ~~(1) Competitive bids when seeking lowest and best responsible bid.~~
    - ~~a.~~ Except as set forth in subsection (2), this subsection (1) shall apply to city solicitations for formal bidding procedure in accordance with 2-262, Code of Ordinances.

- b. ~~Port Orange business.~~ In any competitive bidding process where a bid submitted by a Port Orange business is within eight percent of the lowest and best responsible bid submitted by a non-Port Orange business, then the Port Orange business shall have the opportunity to submit, within five working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.
  - c. ~~Volusia County business.~~ In any competitive bidding process where a Volusia County business is within five percent of the lowest and best responsible bid submitted by a business other than a Port Orange business or Volusia County business, then the Volusia County business shall have the opportunity to submit, within five working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.
  - d. ~~Florida business.~~ In any competitive bidding process where a Florida business is within three percent of the lowest and best responsible bid submitted by a non-local business, then the Florida business shall have the opportunity to submit, within five working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.
  - e. ~~Tied bid preference.~~ In case of a tie between a local business and a nonlocal business, the local business shall prevail. In case of a tie between two or more local businesses, the following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.
- (2) ~~Competitive bids when seeking highest and best responsible bid for revenue-generating solicitations.~~
- a. ~~Except as set forth in this subsection (2), revenue-generating solicitations follow the same purchasing guidelines and solicitation requirements for the purchase of goods or services. Revenue-generating solicitations may include audit procedures which have been reviewed by the finance department. This subsection (2) shall apply to solicitations issued by the City of Port Orange that seek a revenue-generating proposal, including, but not limited to, the following:~~
    - 1. ~~Sale or lease of property.~~
    - 2. ~~Roll-offs.~~
    - 3. ~~Wrecker services.~~
    - 4. ~~Concessions.~~
    - 5. ~~Licensing services.~~
    - 6. ~~Copyrights.~~
    - 7. ~~Equipment and other personal property.~~
    - 8. ~~Any other solicitations that will generate revenue to the City of Port Orange, consistent with City of Port Orange Code of Ordinances and as otherwise authorized.~~
  - b. ~~Port Orange business.~~ In any competitive bidding process where a bid submitted by a Port Orange business is within eight percent of the highest and best responsible bid submitted by a non-Port Orange business, then the Port Orange business shall have the opportunity to submit, within five working days of the bid opening, a best and final bid equal to or higher than the amount of the original high bid. The bid shall then be awarded to the highest and best responsible bidder.
  - c. ~~Volusia County business.~~ In any competitive bidding process where a Volusia County business is within five percent of the highest and best responsible bid submitted by a business other than a Port Orange business or Volusia County business, then the Volusia County business shall have the opportunity to submit, within five working days of the bid opening, a best and final bid equal to

~~or higher than the amount of the original high bid. The bid shall then be awarded to the highest and best responsible bidder.~~

- ~~d. *Florida business.* In any competitive bidding process where a Florida business is within three percent of the highest and best responsible bid submitted by a non-local business, then the Florida business shall have the opportunity to submit, within five working days of the bid opening, a best and final bid equal to or higher than the amount of the original high bid. The bid shall then be awarded to the highest and best responsible bidder.~~
- ~~e. *Tied bid preference.* In case of a tie between a local business and a nonlocal business, the local business shall prevail. In case of a tie between two or more local businesses, the following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.~~
- ~~(d) *Misrepresentation prohibited; penalty.* Any business that misrepresents the local preference status of its firm in a proposal or bid submitted to the city shall lose the privilege to claim preference status, and shall lose eligibility to claim local preference status for a period of one year.~~
- ~~(e) *Local preference not required.* This section shall not be deemed to require the granting of a local preference, and nothing herein prohibits the award of a contract to a non-local business where such award is in the public interest.~~

***[No change to the remainder of this Division 2, Purchase and Sale Procedure]***

SECTION 2: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 3: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared severable.

SECTION 4: The provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Port Orange, Florida and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 5: Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6: This Ordinance shall take effect immediately upon adoption.

\_\_\_\_\_  
MAYOR DONALD O. BURNETTE

ATTEST:

\_\_\_\_\_  
Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the                      day of

Passed and adopted on second and final reading on the                      day of

Reviewed and Approved: \_\_\_\_\_  
Shannon K. Balmer, Assistant City Attorney