



Interoffice Memorandum

December 3, 2018

TO: Mayor Jerry L. Demings
and Board of County Commissioners

FROM: Raymond E. Hanson, P. E., Director
Utilities Department

A handwritten signature in black ink, appearing to read "Raymond E. Hanson".

**SUBJECT: BCC Agenda Item – Consent Agenda
December 18, 2018 BCC Meeting
Utility Line Construction Reimbursement Agreement for Village I
Phase 3
Contact Person: Andres Salcedo, P. E.
Assistant Director, Utilities Department
407-254-9719**

The developers, BB Groves, LLC, Withers, LLC, and Columnar Partnership Holding I, LLC, as part of their infrastructure improvements for Village I Phase 3, will be constructing utilities through their development and extending off-site utilities along Avalon Road.

A 12-inch and 16-inch water main; 6-inch, 8-inch, and 12-inch wastewater force main; and 12-inch and 16-inch reclaimed water main would have been sufficient to meet the anticipated demands for the development. Based on Orange County Utilities' Master Plan, the County requires a 24-inch water main; 16-inch wastewater force main; and 20-inch and 30-inch reclaimed water main along this route to support the County's regional transmission needs.

To maximize efficiency and coordination, Orange County asked the developer to increase the water main diameter to 24-inch; wastewater force main diameter to 16-inch; and reclaimed water main diameter to 20-inch and 30-inch along their proposed construction route. The developer has agreed to pay for the oversizing cost in lieu of paying for the cost associated with water and reclaimed water booster pump stations needed to service their development. The developer will pay the County for the difference between the cost of the booster pump stations and the oversizing cost.

Prior to any development within the property associated with this agreement connecting to water, wastewater, or reclaimed water utilities, the oversized utility work must have been completed, and the County must have been compensated for the difference between the cost of the booster pump stations and the oversizing cost.

The County Attorney's Office staff has reviewed the agreement and finds it acceptable. Utilities Department staff recommends approval.

Action Requested: Approval and execution of Utility Line Construction Reimbursement Agreement for Village I Phase 3 by and between Orange County, BB Groves, LLC, Withers, LLC, and Columnar Partnership Holding I, LLC.

District 1.

UTILITY LINE CONSTRUCTION REIMBURSEMENT AGREEMENT FOR VILLAGE I PHASE 3

THIS UTILITY LINE CONSTRUCTION REIMBURSEMENT AGREEMENT FOR VILLAGE I PHASE 3 (the “Agreement”) is made and entered into as of the date of last execution below (the “Effective Date”) by and between ORANGE COUNTY, a charter county and political subdivision of the State of Florida (the “COUNTY”), whose address is 201 South Rosalind Avenue, Orlando, Florida 32801; BB GROVES, LLC, doing business in Florida as B BANK GROVES, LLC, a Delaware limited liability company (“BB GROVES”), whose address is 5956 Sherry Lane, Suite 1000, Dallas, Texas 75225; WITHERS, LLC, doing business in Florida as WITHERS PROPERTIES, LLC, a Delaware limited liability company (“WITHERS”), whose address is 5956 Sherry Lane, Suite 1000, Dallas, Texas 75225; and COLUMNAR PARTNERSHIP HOLDING I, LLC, an Indiana limited liability company (“COLUMNAR”), whose address is 5956 Sherry Lane, Suite 1000, Dallas, Texas 75225. BB GROVES, WITHERS, AND COLUMNAR are collectively referred to in this Agreement as the “DEVELOPER.” Hereinafter, the COUNTY and the DEVELOPER may be referred to individually as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, BB GROVES is the fee simple owner of certain real property located in unincorporated Orange County, as more particularly described in **Exhibit “A-1”** attached to and made a part of this Agreement by this reference (the “BB GROVES Property”); and

WHEREAS, WITHERS and COLUMNAR are the fee simple owners of certain real property located in unincorporated Orange County, as more particularly described in **Exhibit “A-2”** attached to and made a part of this Agreement by this reference (the “WITHERS Property”). The BB GROVES Property and the WITHERS Property are collectively referred to in this Agreement as the “Property”; and

WHEREAS, the DEVELOPER contemplates the development of a number of improvements for various uses within the Property (collectively the “Project”); and

WHEREAS, in order to proceed with the Project, or any part thereof, it will be necessary to obtain water, wastewater, and reclaimed water service to the Property; and

WHEREAS, the Project is located entirely within the COUNTY’s water, wastewater, and reclaimed water service territory and, therefore, the COUNTY is the appropriate water, wastewater, and reclaimed water service provider with jurisdiction over the Project; and

WHEREAS, the DEVELOPER, in order to deliver water and reclaimed water service to the Project, requires a water booster pump station and a reclaimed water booster pump station (the “Booster Pump Stations”); and

WHEREAS, the DEVELOPER, in order to deliver water, wastewater, and reclaimed water service to the Project, requires 2,644 linear feet of 12-inch PVC water main, 1,522 linear feet of 16-inch ductile iron water main, 852 linear feet of 6-inch PVC wastewater force main, 501 linear feet of 8-inch PVC wastewater force main, 1,514 linear feet of 12-inch PVC wastewater force main, 3,810 linear feet of 12-inch PVC reclaimed water main, and 356 linear feet of 16-inch ductile iron reclaimed water main (the “Utility Work”); and

WHEREAS, the COUNTY, in order to better serve areas within its water, wastewater, and reclaimed water service territories, requests that the DEVELOPER construct 4,166 linear feet of a 24-inch ductile iron water main, 2,867 linear feet of 16-inch PVC wastewater force main, 1,324 linear feet of 20-inch ductile iron reclaimed water main, and 2,842 linear feet of 30-inch ductile iron reclaimed water main in lieu of the Utility Work along the same route as depicted in **Exhibit “B,”** attached to and made a part of this Agreement by this reference, with the 24-inch water main, 16-inch wastewater force main, 20-inch reclaimed water main, and 30-inch reclaimed water main hereinafter collectively described as the “Oversized Utility Work;” and

WHEREAS, the COUNTY has entered into the following utility line construction reimbursement agreements related to the oversizing of developer-needed utility infrastructure along Avalon Road: (i) The Utility Line Construction Reimbursement Agreement for a Portion of the Northeast PD (Parcel 27 Phase 1A Off-Site), and (ii) The Utility Line Construction Reimbursement Agreement for a Portion of the Northeast PD (Parcel 27 Phase 1B Off-Site), both executed on March 20, 2018; and

WHEREAS, the Parties are entering into this Agreement concurrently with another agreement entitled, “The Utility Line Construction Reimbursement Agreement for the Jaffers PD”; and

WHEREAS, the DEVELOPER has submitted to the COUNTY a master utility plan, Village I Horizon West MUP, approved January 16, 2018 (the “MUP”), requiring the Booster Pump Stations to serve the Horizon West Village I Development; and

WHEREAS, the DEVELOPER has requested to proceed with the Horizon West Village I Development without constructing the Booster Pump Stations; and

WHEREAS, the estimated cost of the Booster Pump Stations is Two Million and 00/100 Dollars (\$2,000,000.00) (the “Booster Pump Stations Cost”); and

WHEREAS, the COUNTY will allow the DEVELOPER to use the oversized utility mains and pay the Booster Pump Stations Cost in lieu of constructing the Booster Pump Stations; and

WHEREAS, the sum of the Booster Pump Stations Cost and the COUNTY-approved selected bid amount for the Utility Work is defined as the “Developer Cost”; and

WHEREAS, the COUNTY approved construction cost actually incurred for the Oversized Utility Work is defined as the “Oversized Utility Cost”; and

WHEREAS, the COUNTY finds the expenditure of funds in the achievement of the objectives of this Agreement to be in the public interest.

NOW, THEREFORE, in consideration of the premises hereof and the mutual covenants set forth in this Agreement, and for other good and valuable consideration, the receipt of which is acknowledged by the Parties, the Parties agree as follows:

SECTION 1. RECITALS INCORPORATED.

The recitals set forth above are true and correct, and are incorporated in this Agreement and made a part hereof by this reference.

SECTION 2. PREPARATION OF CONSTRUCTION PLANS, BIDS, AND CONTRACT.

2.1 The DEVELOPER shall cause the preparation of a set of design plans for the Oversized Utility Work based on the preliminary design sketch as depicted in **Exhibit “B.”** The design plans will be subject to the COUNTY’s reasonable review and approval in accordance with COUNTY biddable standards. The contract for the design plans must provide that the COUNTY is a third-party beneficiary with regard to insurance against the design professional’s errors and omissions. The review and approval under this Agreement by the COUNTY is in its proprietary capacity as a Party to this Agreement and is in addition to any governmental permitting functions the COUNTY may be otherwise obligated to perform. Upon final acceptance of the design plans, the COUNTY will provide the DEVELOPER with written notification of such acceptance. Once approved by the COUNTY, the design plans will be referred to as the “Construction Plans.”

2.2 The DEVELOPER must retain a professional engineering firm to assist the DEVELOPER in obtaining at least two (2) responsive bids from responsible bidders qualified to do utility construction for the Oversized Utility Work based on the Construction Plans. The DEVELOPER must obtain itemized bids for the Utility Work and the Oversized Utility Work displaying the bid price for each item listed in **Exhibit “C”** attached to this Agreement and made a part hereof by this reference (the “Standard Bid Form and Pay Items”).

2.3 The DEVELOPER must select the bid of the lowest responsible bidder and notify the COUNTY in writing of the bid selection by providing copies of the itemized bids for the Utility Work and the Oversized Utility Work.

2.4 The COUNTY has fifteen (15) business days following receipt of written notification from the DEVELOPER of the selected bid to review and notify the DEVELOPER, in writing, of the COUNTY’s acceptance of the selected bid, or if the bid is not accepted, the reasons for rejection of the selected bid. In the event the COUNTY does not accept the selected bid, the DEVELOPER has 120 days to address the rejection of the selected bid. In the event the Parties cannot agree on the selected bid within the 120-day period to cure, either the DEVELOPER or the COUNTY may terminate this Agreement upon notice of termination to the

other Party, and neither Party will be liable for or be entitled to bring any action against the other for damages. In the event this Agreement is terminated by the DEVELOPER pursuant to this Section 2.4, the DEVELOPER is obligated to pay the Booster Pump Stations Cost to the COUNTY prior to termination of this Agreement unless the COUNTY has agreed to recover the Booster Pump Stations Cost from a third party pursuant to a separate agreement between the COUNTY and the third party for the performance of the Oversized Utility Work as provided in Section 5.5 below.

2.5 The DEVELOPER must ensure that the construction contract(s) provide(s) a maintenance guarantee pursuant to Section 8.2 of this Agreement for the work performed, which maintenance guarantee must be in force and effect for a period of one (1) year from the date on which the COUNTY accepts ownership and maintenance responsibility for the Oversized Utility Work.

2.6 The DEVELOPER must ensure that the construction contract(s) contain(s) a performance bond and a payment bond pursuant to Section 8 of this Agreement. Each bond must be in the amount of the value of the construction contract. The performance bond must ensure that the construction contractor fully, promptly, and faithfully performs the contract and all obligations thereunder. The payment bond must ensure that the construction contractor promptly makes payment to all persons supplying services, labor, materials, or supplies used directly or indirectly by the contractor, or any subcontractor(s) in the prosecution of the work provided for in the contract.

SECTION 3. PERMITS.

The DEVELOPER shall apply for and obtain all necessary governmental permits and approvals for the Oversized Utility Work. The COUNTY agrees to cooperate and assist the DEVELOPER in its obtaining of all necessary permits related to the Oversized Utility Work. The DEVELOPER must deliver to the COUNTY copies of all applicable permits at the time of final approval by the COUNTY, prior to commencement of construction.

SECTION 4. COMMENCEMENT OF WORK.

After the execution of this Agreement, issuance of all required permits and COUNTY approval of the Construction Plans and selected bidder, and the COUNTY's receipt of the required items as stated herein, the DEVELOPER will commence the Oversized Utility Work based upon the Construction Plans and permits for the same.

SECTION 5. PAYMENT OF COSTS.

The DEVELOPER and the COUNTY agree to pay for the Oversized Utility Work and the Booster Pump Stations Cost as follows:

5.1 The DEVELOPER shall pay for the design, engineering, surveying, geotechnical engineering, environmental work, permitting, bidding, inspection, construction, construction administration, maintenance guarantee, final testing, certification costs, and fees for the Oversized Utility Work. In the event that the Oversized Utility Cost exceeds the Developer Cost, then the COUNTY shall pay the DEVELOPER the cost difference (the "Oversizing Cost").

In no case shall the COUNTY's reimbursement obligation to the DEVELOPER exceed One Dollar (\$1.00). In the event that the Developer Cost exceeds the Oversized Utility Cost, then the DEVELOPER shall pay the COUNTY for the cost difference (the "True-Up Fee"). In no case shall the DEVELOPER's obligation to the COUNTY exceed a True-Up Fee of One Million and 00/100 Dollars (\$1,000,000.00).

5.2 If the Oversizing Cost applies, and the Oversized Utility Work is satisfactorily performed, the COUNTY shall reimburse the DEVELOPER in one lump sum after all of the following events have occurred:

A. Receipt by the COUNTY of a written reimbursement request from the DEVELOPER. Request document must explicitly specify to whom the reimbursement check is made payable and the payee's address;

B. Inspection, approval, and acceptance by the COUNTY of the completed Oversized Utility Work;

C. Receipt by the COUNTY of the maintenance guarantee and bill of sale as described in Section 8 of this Agreement;

D. Receipt by the COUNTY of copies of such contracts, final release of liens, itemized invoices and other documents evidencing the costs of and complete payment for the Oversized Utility Work, including any retainage; and

E. Receipt by the COUNTY of any utility easement(s) in favor of the COUNTY required for the Oversized Utility Work, whether or not the utility easements are depicted in the Construction Plans, including but not limited to future right-of-way easements, preliminary right-of-way easements, access and construction easements, temporary easements, and utility easements.

5.3 In the event the COUNTY raises any objections to any fee or cost set forth in the reimbursement request or supporting documentation, the disputed amount will be withheld from payment and the undisputed amount shall be paid in accordance with this Section 5.

5.4 If the True-up Fee applies, a certificate of completion shall not be issued for the Oversized Utility Work until the DEVELOPER has paid the True-up Fee to the COUNTY and complied with the terms of this Agreement.

5.5 In the event the DEVELOPER has not let a contract for the construction of the Oversized Utility Work that is acceptable to the County on or before the second anniversary of the Effective Date of this Agreement, then the following conditions shall apply:

A. The COUNTY may provide written notice to the DEVELOPER of the COUNTY's intent to perform the Oversized Utility Work or to have a third party perform the Oversized Utility Work pursuant to a separate agreement between the COUNTY and such third party (the "Election Notice");

B. The COUNTY or such thirty party shall have the right to commence the Oversized Utility Work if, within six (6) months following the DEVELOPER's receipt of an Election Notice from the COUNTY, the DEVELOPER has not commenced construction of the Oversized Utility Work; and

C. If the COUNTY or such third party commences construction of the Oversized Utility Work pursuant to this Section 5.5, then the DEVELOPER shall be automatically released from all obligations under this Agreement except that, if the COUNTY has not agreed to recover the Booster Pump Stations Cost from such third party, then, upon completion of the Oversized Utility Work by the COUNTY or such third party as evidenced by issuance of a certificate of completion for such work, the COUNTY shall have the right to draw on the Letter of Credit as defined in Section 6 below and the DEVELOPER shall be required to pay to the COUNTY the cost difference, if any, between the Booster Pump Stations Cost and the penal amount of the Letter of Credit, prior to any development within the Property connecting to water, wastewater, or reclaimed water utilities.

SECTION 6. LETTER OF CREDIT

A **Letter of Credit** in a form substantially similar to the draft letter of credit attached as **Exhibit "D"** of this Agreement and acceptable to the COUNTY is required as part of this Agreement for the duration of the DEVELOPER's obligations under this Agreement. The Letter of Credit must be drawn on a financial institution having an office for the Letter of Credit presentation in either Orange, Seminole, or Osceola counties, and the financial institution must be on the State of Florida approved "Qualified Public Depositories" list for local governments, as identified in Chapter 280, Florida Statutes. The DEVELOPER will provide the Letter of Credit to the COUNTY prior to the approval of the Construction Plans in the amount of Two Hundred Seventy-Three Thousand Four Hundred Ninety and 00/100 Dollars (\$273,490.00), which sum represents the estimated amount of the True-Up Fee. In the event the COUNTY or a third party operating pursuant to a separate agreement with the COUNTY commences construction of the Oversized Utility Work pursuant to Section 5.5, and if the COUNTY has not agreed to recover the Booster Pump Stations Cost from such third party, then, upon completion of the Oversized Utility Work by the COUNTY or such third party as evidenced by issuance of a certificate of completion for such work, the COUNTY may draw upon the Letter of Credit and the DEVELOPER is obligated to pay to the COUNTY the cost difference, if any, between the Booster Pump Stations Cost and the penal amount of the Letter of Credit, prior to any development within the Property connecting to water, wastewater, or reclaimed water utilities. The COUNTY shall return the Letter of Credit to the DEVELOPER or the issuing bank (at the DEVELOPER's option) upon the DEVELOPER's payment of the True-Up Fee to the COUNTY in accordance with this Agreement.

In the event the Oversized Utility Work is performed by the COUNTY or a third party pursuant to Section 5.5 prior to the DEVELOPER issuing the Letter of Credit to the COUNTY pursuant to this Section 6, then the DEVELOPER shall pay the Booster Pump Stations Cost to the COUNTY prior to any development within the Property connecting to water, wastewater, or reclaimed

water utilities, unless the COUNTY has agreed to recover the Booster Pump Stations Cost from a third party.

SECTION 7. DISPUTES.

All claims, disputes and other matters in question between the Parties arising out of, or relating to, this Agreement or its performance or breach (a “Dispute”) shall be resolved in the following order: (a) good-faith negotiation, (b) mediation, and then (c) judicial resolution. The process of “good-faith negotiation” requires each Party to set out in writing to the other its reason(s) for adopting a specific conclusion or for selecting a particular course of action, together with the sequence of subordinate facts leading to the conclusion or course of action. The good-faith negotiations shall include at least one meeting of representatives of the Parties. The Party-representative shall have authority to resolve the Dispute.

SECTION 8. PERFORMANCE AND PAYMENT BONDS; MAINTENANCE GUARANTEE; AND BILL OF SALE.

8.1 Prior to commencing the construction, the DEVELOPER or its general contractor must obtain and deliver to the COUNTY a payment bond and a performance bond, as referenced in Section 2.6 of this Agreement, reasonably acceptable to the COUNTY, pursuant to Section 255.05, Florida Statutes, as it may be amended. The payment and performance bonds must name the COUNTY as Dual-Obligee and be assignable to the COUNTY following acceptance of the Oversized Utility Work by the COUNTY. The surety company issuing the payment bond and the performance bond must meet the following qualifications:

- Surety must be licensed to do business in the State of Florida, maintain an A-VI or better rating with A.M. Best or an equivalent rating agency and shall comply with the provisions of Section 255.05, Florida Statutes.
- Surety must be listed on the most recent version of the U.S. Department of Treasury Fiscal Service, Bureau of Financial Management, Circular 570 entitled: “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies.”
- All bonds/surety instruments must be originals and issued by a producing agent with the authority to issue said bonds/surety instruments on behalf of the surety company. Attorneys-in-fact who sign bonds/surety instruments must attach with each bond/surety instrument a certified and effectively dated copy of their power of attorney. Agents of surety companies must list their name, address, and telephone number on all bonds/surety instruments.

8.2 The DEVELOPER must provide a maintenance guarantee in the form of an irrevocable letter of credit, cash escrow, or maintenance bond in favor of the COUNTY in an amount equal to ten (10) percent of the Costs of the Oversized Utility Work. The purpose of the maintenance guarantee is to guarantee the materials, workmanship, structural integrity, functioning, and maintenance of the Oversized Utility Work. The surety company issuing the maintenance bond must meet the qualifications set forth in Section 8.1 of this Agreement. If the

maintenance guarantee is provided in the form of an irrevocable letter of credit, the letter of credit must be drawn on a financial institution having an office for the letter of credit presentation in either Orange, Seminole, or Osceola counties, and the financial institution shall be on the State of Florida approved "Qualified Public Depositories" list for local governments, as identified in Chapter 280, Florida Statutes. The maintenance guarantee must be in a form acceptable to the COUNTY.

8.3 Prior to the COUNTY's issuance of the certificate of completion for the Oversized Utility Work, the DEVELOPER must deliver to the COUNTY a bill of sale in favor of the COUNTY, a maintenance guarantee provided in this Agreement for the Oversized Utility Work, and the payment of the True-Up Fee, if applicable, pursuant to Section 5 of this Agreement, at which time the COUNTY will be deemed to have accepted the dedication of and ownership and operational responsibility for the Oversized Utility Work.

SECTION 9. INDEMNIFICATION.

For value received, which is hereby acknowledged, the DEVELOPER agrees, on behalf of itself, its agents, contractors, successors and assigns, that it shall, to the fullest extent permitted by law, defend, indemnify, and hold harmless the COUNTY, its officials, agents, and employees from and against any and all liabilities, claims, damages, losses, costs and expenses (including attorneys' fees) arising out of or resulting from the performance of the construction activities, provided that any such liability, claim, damage, loss, cost or expense:

- Is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property (other than the construction activities themselves) including the loss of use resulting therefrom; and
- Is caused in whole or part by an act or omission relating to the Oversized Utility Work by the DEVELOPER, its agents or employees, or any contractor employed by the DEVELOPER, or anyone directly or indirectly employed by the DEVELOPER or its contractor(s), their subcontractors, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the negligence of the COUNTY.

SECTION 10. INSURANCE.

Prior to commencing any portion of the Oversized Utility Work and throughout the course of construction of the Oversized Utility Work, the DEVELOPER or its agents and contractors, shall procure and maintain insurance limits and terms as follows:

(i) Workers' compensation insurance with statutory workers' compensation limits and no less than One Million and 00/100 Dollars (\$1,000,000.00) for Employer's Liability with a waiver of subrogation in favor of the COUNTY, its consultants, agents, employees and officials.

(ii) Commercial general liability insurance for all operations including, but not limited to, contractual, products and completed operations and personal injury with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and an aggregate limit of at least twice the per occurrence limit.

(iii) Business automobile liability insurance for all owned, hired, or non-owned vehicles with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence.

(iv) Professional Liability (errors and omissions) for engineering design in amounts not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence.

The DEVELOPER is responsible for ensuring that each of its contractors and subcontractors of every tier procure and maintain the insurance specified above and must furnish to the COUNTY evidence of such insurance including endorsements prior to commencement of construction. The COUNTY must be specifically named (scheduled) as an additional insured on all policies except for workers' compensation coverage.

All coverage must be primary and not contributory with any insurance or self-insurance maintained by the COUNTY. The DEVELOPER must provide the COUNTY notice of any material change, cancellation, or non-renewal of any policy required in this Agreement at least thirty (30) days prior to the occurrence thereof.

SECTION 11. EXCUSE FROM PERFORMANCE BY GOVERNMENTAL ACTS.

If for any reason during the term of this Agreement, local, regional or state governments or agencies (other than the COUNTY) fails to issue necessary permits or fails to grant necessary approvals for the Oversized Utility Work, after the DEVELOPER has complied with all conditions precedent to receipt of such permits, to the extent that the requirements necessary to obtain such permits or approvals affect the ability of the DEVELOPER or the COUNTY to perform any of the terms thereof, this Agreement will be renegotiated by the Parties to the extent reasonably feasible to cause the Oversized Utility Work to comply with said requirements.

SECTION 12. LIMITATION OF LIABILITY.

The COUNTY and DEVELOPER expressly agree that the consideration, in part, for each of them entering into this Agreement is the willingness of the other to limit the remedies as provided herein. Except as otherwise provided herein, in redress for the failure of either Party to perform its obligations under this Agreement, the Parties have only the following remedies available against each other:

- (i) action for specific performance; or
- (ii) action for injunction; or
- (iii) action for declaratory judgment regarding the rights and obligations of the DEVELOPER or the COUNTY; or
- (iv) any combination of the foregoing.

Both Parties expressly waive their respective rights to sue for damages of any type for breach of or default under this Agreement by the other. Both Parties expressly agree that each will bear the cost of its own attorney's fees for any action arising out of or in connection with this Agreement. Both Parties waive their respective rights to trial by jury.

SECTION 13. COMPLIANCE WITH LAWS AND REGULATIONS.

In performing pursuant to the Agreement, each Party will abide by the respective statutes, ordinances, rules and regulations pertaining to, or regulating, the acts of such Party.

SECTION 14. NOTICE.

Any notice required or allowed to be delivered hereunder must be in writing and be deemed to be delivered when (i) hand delivered to the official hereinafter designated, or (ii) three (3) days after the date on which deposited in the United States mail, postage prepaid, certified mail return receipt requested, and addressed to a Party at the address set forth opposite the Party's name below or such other address as the Party shall have specified by written notice to the other Party delivered in accordance herewith.

If to the COUNTY: Orange County Utilities Department
9150 Curry Ford Road
Orlando, Florida 32825-7600
Attn: Director

With copy to: Orange County Administrator's Office
Orange County Administration Building
201 S. Rosalind Avenue, 5th Floor
Orlando, Florida 32801-3527
Attn: County Administrator

If to the DEVELOPER: BB Groves, LLC
5956 Sherry Lane, Suite 1000
Dallas, Texas 75225-8021
Attention: Daniel Traylor

With copy to: Withers, LLC
5956 Sherry Lane, Suite 1000
Dallas, Texas 75225-8021
Attention: Daniel Traylor

With copy to: Columnar Partnership Holding I, LLC
5956 Sherry Lane, Suite 1000
Dallas, Texas 75225-8021
Attention: Daniel Traylor

With copy to: James H. McNeil, Jr.
Akerman LLP
420 South Orange Avenue, Suite 1200
Orlando, Florida 32801-4904

SECTION 15. **ENTIRE AGREEMENT.**

This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof, and may not be modified or amended except by a written instrument equal in dignity herewith and executed by the Parties to be bound thereby.

SECTION 16. **TIME IS OF THE ESSENCE.**

Time is declared of the essence as to the lawful performance of all duties and obligations set forth in this Agreement.

SECTION 17. **NON-WAIVER.**

No consent or waiver, expressed or implied, by either Party, to or of any breach or default of the other Party, with regard to the performance by the other Party of its obligations under this Agreement will be deemed or construed to constitute consent or waiver, to or of, any other breach or default in the performance of that Party, of the same or of any other objection of performance incumbent upon that Party. Failure on the part of either Party to complain of any act or failure to act on the part of the other Party in default, irrespective of how long the failure continues, will not constitute a waiver by that Party of its rights and any remedies that exist under this Agreement, at law, or in equity.

SECTION 18. **CONSTRUCTION OF AGREEMENT.**

This Agreement will not be construed against either Party on the basis of it being the drafter of the Agreement. The Parties agree that both Parties played an equal part in negotiating the terms and conditions of this Agreement. Captions and section headings in this Agreement are provided for convenience only and will not be deemed to explain, modify, amplify, or aid in the interpretation, construction, or meaning of this Agreement.

SECTION 19. **REASONABLE APPROVAL.**

In those instances in this Agreement in which a Party's approval, consent or satisfaction is required and a time period is not specified, then it will be implied that such action will be exercised in a reasonable manner and within a reasonable time frame.

SECTION 20. **PUBLIC RECORDS.**

The DEVELOPER will allow public access to all documents, papers, letters or other materials subject to the provisions of Chapter 119, Florida Statutes, and which have been made or received by the DEVELOPER in conjunction with this Agreement. Nothing herein contained requires the DEVELOPER to allow public access to any financial information not pertaining specifically to the Construction Plans, or to any proprietary information.

SECTION 21. **RECORDS AND AUDITS.**

The DEVELOPER will maintain in its place of business all books, documents, papers and other evidence pertaining in any way to payments made pursuant to this Agreement. Such records must be available at the DEVELOPER's place of business at all reasonable times during the term of this Agreement and for four (4) years from the date of final payment under this Agreement for audit or inspection by the COUNTY upon five (5) business days' prior written notice.

SECTION 22. **EQUAL OPPORTUNITY EMPLOYMENT.**

The DEVELOPER agrees that it will not discriminate and will provide in all contracts that its contractors will not discriminate against any employee or applicant for employment under this Agreement because of race, color, religion, sex, age, or national origin and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, or national origin.

SECTION 23. **SEVERABILITY.**

If any part of this Agreement is found invalid or unenforceable by any court, such validity or unenforceability will not affect the other parts of this Agreement if the rights and obligations of the Parties contained therein are not materially prejudiced and if the intentions of the Parties can continue to be effectuated. To that end, this Agreement is declared severable.

SECTION 24. **ASSIGNMENT.**

The rights and obligations of the DEVELOPER under this Agreement are not covenants running with the land and are only binding upon and exercisable by the DEVELOPER (and not any successor in title to any portion of the Property), unless this Agreement is expressly assigned by the DEVELOPER as provided in this Section 24. This Agreement or any of the rights, obligations and responsibilities hereunder, are in no part assignable by the DEVELOPER without the consent or approval of such assignment by the COUNTY, provided that the COUNTY's approval will not be unreasonably withheld so long as the successor to the DEVELOPER is of equal or better economic status and is capable of fulfilling all obligations of the DEVELOPER, including, but not limited to, the ability to service and maintain the insurance and indemnification obligations of the DEVELOPER. Only upon execution of a novation agreement between the COUNTY and the successor-owner, will the DEVELOPER be released from any obligations and responsibilities arising under or attributable to the Agreement, and only where the COUNTY has received notice of and accepted work performed by the successor-owner.

SECTION 25. **RECORDING.**

The Parties agree that an executed copy of this Agreement, including the Exhibits attached hereto, shall be recorded by the DEVELOPER at the DEVELOPER's expense in the Public Records of Orange County, Florida.

SECTION 26. DISCLAIMER OF THIRD PARTY BENEFICIARIES.

No right or cause of action shall accrue upon or by reason of this Agreement, to or for the benefit of any third party not a formal party to this Agreement. The Parties agree that this section may not be applied to provisions of this Agreement to situations where the Parties have authorized one Party to be a third party beneficiary to the construction, design, or other agreement authorized herein or any assignee under this Agreement.

SECTION 27. GOVERNING LAW AND VENUE.

This Agreement is governed by and construed in accordance with laws of the State of Florida, without giving effect to any choice of law rules thereof which may direct the application of laws of another jurisdiction. The venue for any mediation or judicial proceedings will be Orange County, Florida.

SECTION 28. LAND USE AND OTHER REGULATORY APPROVALS.

This Agreement will not be construed as granting or assuring or indicating any further grant of any land use, zoning, subdivision, density or development approvals, permissions or rights with respect to the Project. Nor will this Agreement be deemed to reduce, eliminate, derogate from, or otherwise adversely affect any such approvals, permissions, or rights.

SECTION 29. NON-APPROPRIATION.

In accordance with the Florida Constitution and other applicable state and local laws, including but not limited to Section 129.07, Florida Statutes, the obligations of the COUNTY in this Agreement are subject to sufficient budgeted COUNTY funds being available in each COUNTY budget year to achieve the purposes of this Agreement.

SECTION 30. NO PARTNERSHIP OR JOINT VENTURE.

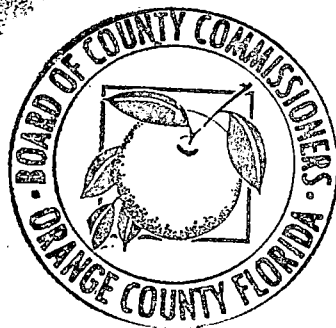
Nothing in this Agreement is intended to create a partnership or joint venture between the Parties and neither Party shall be construed to be the partner or joint venturer of the other Party for any purpose.

SECTION 31. FURTHER DOCUMENTATION.

The Parties agree that from time to time and following a request therefore by a Party, each Party shall properly execute and deliver to the other Party such other documents and instruments reasonably necessary to effectuate the obligations of each Party hereunder.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed as of the dates indicated below.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Jerry L. Demings*
Jerry L. Demings
County Mayor

Date: 12.18.18

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Katie Smith*
Deputy Clerk

Print: Katie Smith

WITNESSES:

Rosa Pacheco
Print Name: Rosa Pacheco
JAMES DUNN
Print Name: JAMES DUNN

BB GROVES, LLC, a Delaware limited liability company doing business in Florida as B BANKS GROVES, LLC, a Delaware limited liability company

By: [Signature]
Name: Daniel A. Traylor
Title: Manager
Date: 11.26.18

STATE OF TEXAS
COUNTY OF DALLAS

The foregoing instrument was acknowledged before me this 26 day of NOVEMBER, 2018, by Daniel A. Traylor, as Manager of BB GROVES, LLC, a Delaware limited liability company doing business in Florida as B BANK GROVES, LLC, on behalf of such company, who [] is personally known to me or [] has produced _____ as identification.

(Notary Stamp)



[Signature]
Signature of Notary Public
Print Name: Mirna Turner
Notary Public, State of Texas
Commission Expires: _____

WITNESSES:

WITHERS, LLC, a Delaware limited liability company doing business in Florida as WITHERS PROPERTIES, LLC, a Delaware limited liability company

Rosa Pacheco
Print Name: Rosa Pacheco

Jake Dano
Print Name: JAKE DANO

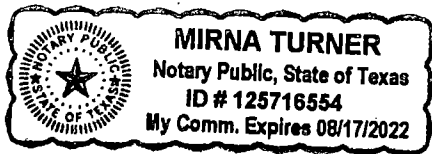
By: CH II WITHERS, LLC, a Delaware limited liability company

By: [Signature]
Name: Daniel A. Traylor
Title: Manager
Date: 11.26.18

STATE OF TEXAS
COUNTY OF DALLAS

The foregoing instrument was acknowledged before me this 26 day of NOVEMBER, 2018 by Daniel A. Traylor, as Manager of CH II WITHERS, LLC, a Delaware limited liability company, as Manager of WITHERS, LLC, a Delaware limited liability company doing business in Florida as WITHERS PROPERTIES, LLC, on behalf of such company, who [] is personally known to me or [] has produced _____ as identification.

(Notary Stamp)



[Signature]
Signature of Notary Public
Print Name: Mirna Turner
Notary Public, State of Texas
Commission Expires: _____

WITNESSES:

COLUMNAR PARTNERSHIP HOLDING I, LLC an Indiana limited liability company

Rosa Pacheco
Print Name: Rosa Pacheco

[Signature]
Print Name: SALVE DUNN

By: COLUMNAR HOLDING, LLC, an Indiana limited liability company, its sole Member

By: [Signature]
Name: Daniel A. Traylor
Title: President
Date: 11.26.18

STATE OF TEXAS
COUNTY OF DALLAS

The foregoing instrument was acknowledged before me this 26 day of NOVEMBER, 2018, by Daniel A. Traylor, as President of COLUMNAR HOLDING, LLC, an Indiana limited liability company, the sole Member of COLUMNAR PARTNERSHIP HOLDING I, LLC, an Indiana limited liability company, on behalf of such company, who is personally known to me or has produced _____ as identification.

(Notary Stamp)



[Signature]
Signature of Notary Public
Print Name: Mirna Turner
Notary Public, State of Texas
Commission Expires: _____

EXHIBIT "A-1"
BB GROVES Property Legal Description

Legal Description

A portion of Section 30, Township 24 South, Range 27 East, Orange County, Florida, described as follows:

BEGIN at the northwest corner of the Northwest 1/4 of the Southwest 1/4 of said Section 30; thence run N 89°23'07" E, along the north line of the Northwest 1/4 of the Southwest 1/4 of said Section 30, a distance of 954.16 feet; thence run N 62°24'56" E, a distance of 559.03 feet to a point on the west line of the Southeast 1/4 of the Northwest 1/4 of said Section 30; thence run N 00°46'47" E, along said west line, a distance of 1,069.54 feet to a point on the north line of the Southeast 1/4 of the Northwest 1/4 of said Section 30; thence run N 89°13'11" E, along said north line, a distance of 1,339.31 feet to a point on the north line of the Southwest 1/4 of the Northeast 1/4 of said Section 30; thence run N 89°23'35" E, along said north line, a distance of 962.85 feet to a point on the westerly right-of-way line of Avalon Road; thence southerly along said westerly right-of-way line, the following three (3) courses and distances: run S 05°01'29" W, a distance of 31.42 feet; thence run N 84°58'31" W, a distance of 6.00 feet; thence run S 05°01'29" W, a distance of 1,967.44 feet to a point on the south line of the North 1/2 of the Northwest 1/4 of the Southeast 1/4 of said Section 30; thence run S 89°24'45" W, along said south line, a distance of 803.61 feet to a point on the east line of the Northeast 1/4 of the Southwest 1/4 of said Section 30; thence run S 00°37'43" W, along said east line, a distance of 661.75 feet to a point on the south line of the Northeast 1/4 of the Southwest 1/4 of said Section 30; thence run S 89°26'23" W, along said south line, a distance of 379.35 feet; thence, departing said south line, run N 37°02'21" W, a distance of 23.56 feet; thence run N 49°17'19" W, a distance of 47.16 feet; thence run N 60°35'13" W, a distance of 50.75 feet; thence run N 44°13'20" W, a distance of 55.70 feet; thence run N 23°06'04" W, a distance of 59.87 feet; thence run N 32°39'40" W, a distance of 53.54 feet; thence run N 18°59'12" W, a distance of 40.76 feet; thence run N 22°24'27" W, a distance of 63.40 feet; thence run N 05°07'47" W, a distance of 62.38 feet; thence run N 18°36'57" W, a distance of 81.53 feet; thence run N 76°53'59" W, a distance of 72.44 feet; thence run S 61°25'16" W, a distance of 74.34 feet; thence run S 89°07'56" W, a distance of 61.67 feet; thence run S 56°45'48" W, a distance of 53.34 feet; thence run S 33°19'21" W, a distance of 51.38 feet; thence run S 82°01'13" W, a distance of 94.02 feet; thence run S 63°53'23" W, a distance of 45.75 feet; thence run S 52°30'07" W, a distance of 40.51 feet; thence run S 74°16'24" W, a distance of 53.33 feet; thence run S 50°19'15" W, a distance of 33.13 feet; thence run S 62°12'46" W, a distance of 45.60 feet; thence run S 73°22'57" W, a distance of 71.21 feet; thence run N 78°31'55" W, a distance of 57.08 feet; thence run S 85°48'48" W, a distance of 89.59 feet; thence run S 78°27'11" W, a distance of 47.05 feet; thence run S 84°52'30" W, a distance of 52.37 feet; thence run N 77°56'31" W, a distance of 52.48 feet; thence run S 86°02'11" W, a distance of 22.19 feet; thence run N 43°02'30" W, a distance of 33.50 feet; thence run S 57°40'16" W, a distance of 24.15 feet; thence run S 22°12'29" E, a distance of 38.60 feet; thence run S 71°10'42" W, a distance of 38.65 feet; thence run S 39°58'07" W, a distance of 51.47 feet; thence run S 32°03'09" W, a distance of 70.85 feet; thence run S 24°37'07" W, a distance of 41.33 feet; thence run S 28°42'53" W, a distance of 50.69 feet; thence run S 23°06'00" W, a distance of 21.61 feet to a point on the south line of the Northwest 1/4 of the Southwest 1/4 of said Section 30; thence run S 89°26'23" W, along said south line, a distance of 588.73 feet; thence, departing said south line, run N 36°17'57" W, a distance of 33.26 feet; thence run N 11°16'10" W, a distance of 61.20 feet; thence run N 26°27'40" E, a distance of 52.60 feet; thence run N 20°25'28" E, a distance of 49.99 feet; thence run N 35°40'41" E, a distance of 74.87 feet; thence run N 33°54'12" E, a distance of 32.97 feet; thence run N 45°41'20" W, a distance of 35.31 feet; thence run N 34°20'41" W, a distance of 26.86 feet; thence run N 76°36'17" W, a distance of 34.51 feet; thence run N 60°17'32" W, a distance of 38.07 feet; thence run S 40°13'50" W, a distance of 38.18 feet; thence run S 40°46'30" W, a distance of 59.35 feet; thence run S 53°06'24" W, a distance of 80.02 feet; thence run S 58°40'33" W, a distance of 49.45 feet; thence run S 26°54'16" W, a distance of 73.80 feet; thence run S 22°53'46" W, a distance of 61.98 feet; thence run S 42°27'46" E, a distance of 29.14 feet; thence run N 60°54'59" E, a distance of 78.88 feet; thence run S 26°39'56" E, a distance of 54.51 feet; thence run S 23°04'16" W, a distance of 45.29 feet to a point on the aforesaid south line of the Northwest 1/4 of the Southwest 1/4 of said Section 30; thence run S 89°26'23" W, along said south line, a distance of 264.77 feet to a point on the west line of the Northwest 1/4 of the Southwest 1/4 of said Section 30; thence run N 00°22'05" E, along said west line, a distance of 1,320.86 feet to the POINT OF BEGINNING.

Containing 157.12 acres, more or less.

Township 24

The East 488 feet of the North ½ of the Southwest ¼ of Section 29,
South, Range 27 East, Orange County, Florida.

PARCEL 3: The Southwest ¼ of the Southwest ¼ of Section 29, Township 24 South, Range 27 East,
Orange County, Florida

AND

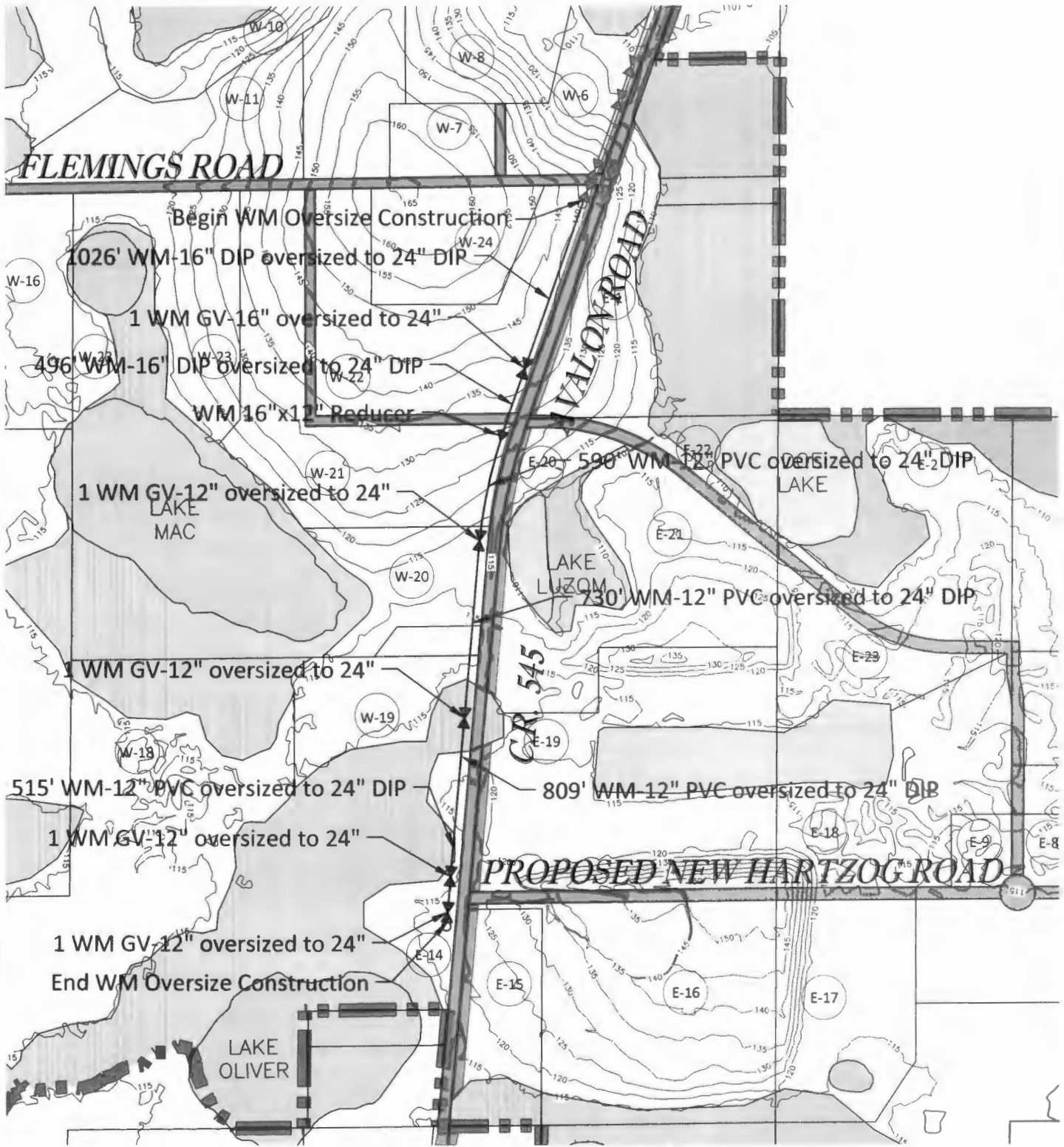
Commencing at the Northeast Corner of the Southwest ¼ of Section 29, Township 24 South, Range 27 East, Run West 488 feet for a starting point; thence run South to the South boundary line of the Northeast ¼ of the Southwest ¼; thence West 475 feet; thence North to the North boundary of the Northeast ¼ of the Southwest ¼; thence East 475 feet to a point of beginning, all lying and being in Orange County, Florida.

PARCEL 4:

THAT CERTAIN PARCEL OF LAND SITUATED IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF AFORESAID SECTION 29; THENCE NORTH 00°19'17" EAST, ALONG THE WEST LINE OF AFORESAID SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, A DISTANCE OF 1013.22 FEET; THENCE DEPARTING SAID WEST LINE, SOUTH 89°43'17" EAST, A DISTANCE OF 799.31 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 64°27'16", A CHORD BEARING OF SOUTH 57°29'40" EAST AND A CHORD DISTANCE OF 26.66 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 28.12 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 930.00 FEET, A CENTRAL ANGLE OF 08°29'56", A CHORD BEARING OF SOUTH 29°31'00" EAST AND A CHORD DISTANCE OF 137.82 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 137.95 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 87°02'13", A CHORD BEARING OF SOUTH 09°45'09" WEST AND A CHORD DISTANCE OF 34.43 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 37.98 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 53°16'15" WEST, A DISTANCE OF 25.84 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 325.00 FEET, A CENTRAL ANGLE OF 52°56'58", A CHORD BEARING OF SOUTH 26°47'46" WEST AND A CHORD DISTANCE OF 289.77 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 300.35 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 00°19'17" WEST, A DISTANCE OF 565.94 FEET TO A POINT ON THE SOUTH LINE OF AFOREMENTIONED SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29; THENCE SOUTH 89°54'59" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 735.02 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B" OVERSIZED UTILITY WORK WATER MAIN

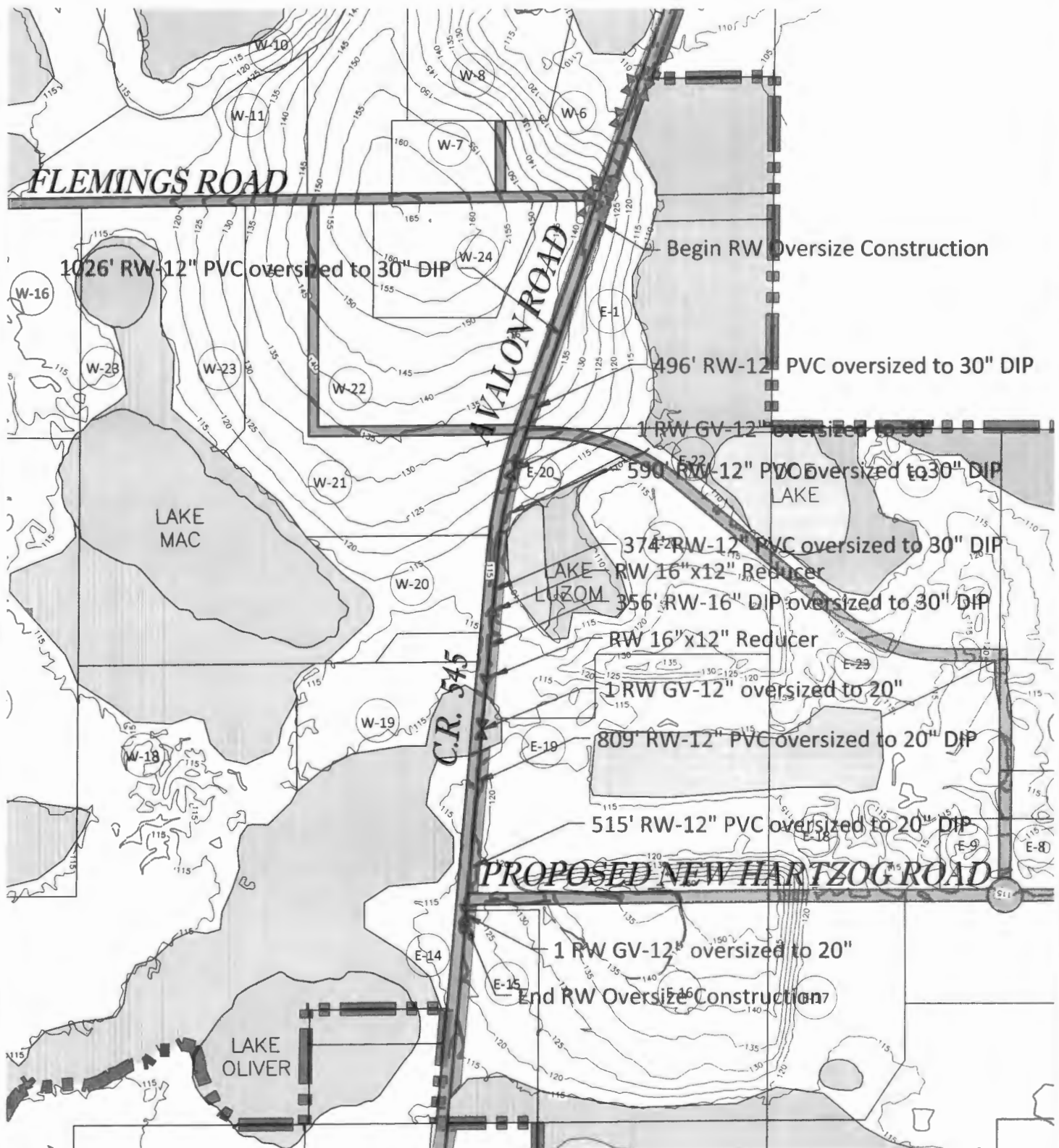


Village I Phase 3 Oversized Water Main

Offsite Improvements



EXHIBIT "B"
 OVERSIZED UTILITY WORK
 RECLAIMED WATER MAIN



Village I Phase 3 Oversized Reclaimed Water Main

Offsite Improvements



October 30, 2018
 P & B File No.: 16-016

2602 E. Livingston St.
 Orlando, Florida 32803-407.487.2594

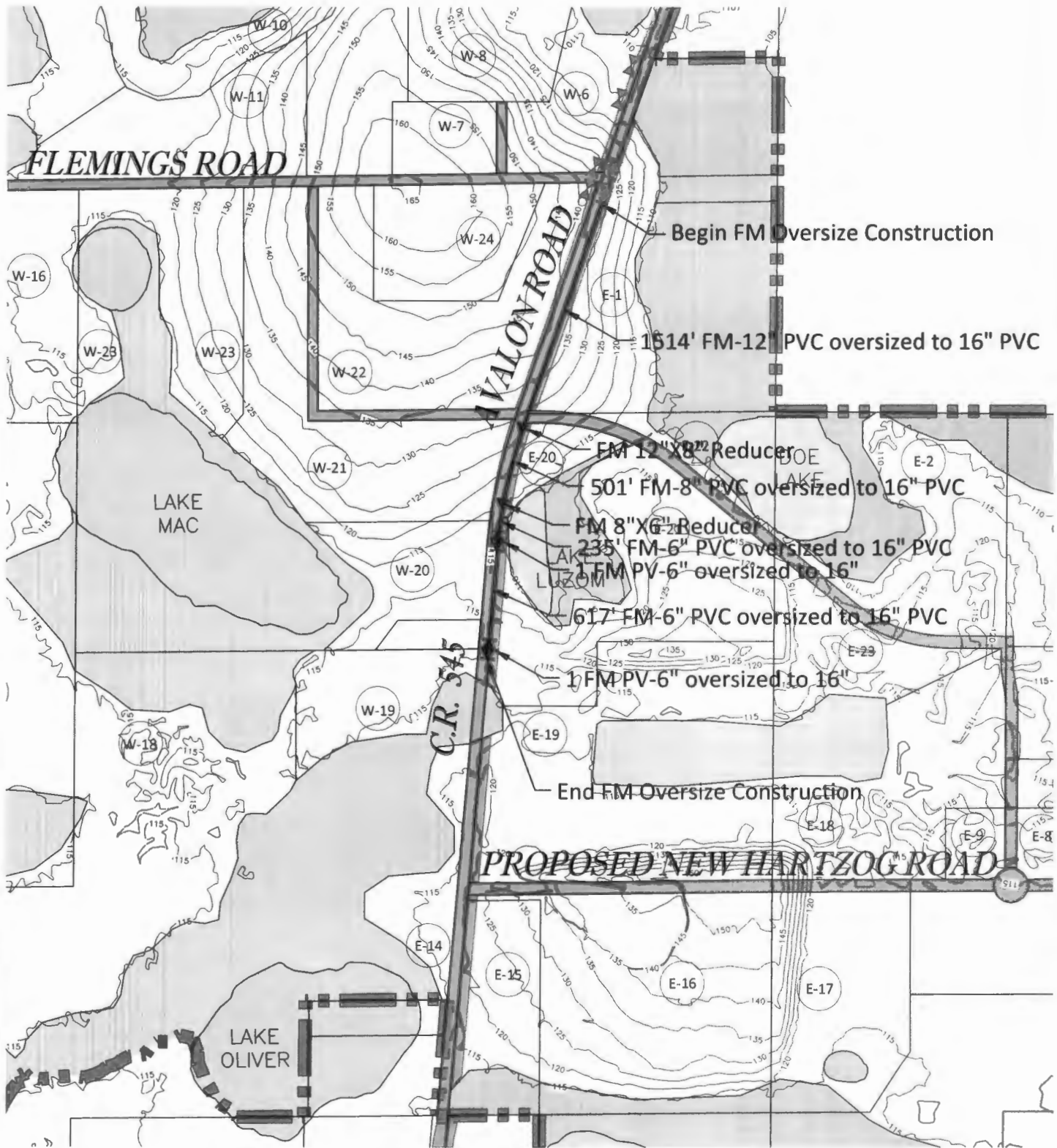
POULOS & BENNETT

www.poulosandbennett.com
 Certificate of Authorization No. 28567

Exhibit B-2 of 3

2/2015/18-014 COLUMN HOLDINGS - RELEASE PARCELS TO & FROM/ENHANCE & IMPROVEMENTS/18018 ORIGINAL WALON SOUTH PORTER EXHIBIT

EXHIBIT "B" OVERSIZED UTILITY WORK FORCE MAIN



Village I Phase 3 Oversized Force Main

Offsite Improvements



DATE: 10/18/18 07:18 COLL: 16-016-016 - VILLAGE I PHASE 3 & 17, 18, 19, 20 & 21, 22, 23 & 24, 25 & 26, 27, 28, 29, 30 & 31, 32 & 33, 34 & 35, 36 & 37, 38 & 39, 40 & 41, 42 & 43, 44 & 45, 46 & 47, 48 & 49, 50 & 51, 52 & 53, 54 & 55, 56 & 57, 58 & 59, 60 & 61, 62 & 63, 64 & 65, 66 & 67, 68 & 69, 70 & 71, 72 & 73, 74 & 75, 76 & 77, 78 & 79, 80 & 81, 82 & 83, 84 & 85, 86 & 87, 88 & 89, 90 & 91, 92 & 93, 94 & 95, 96 & 97, 98 & 99, 100 & 101, 102 & 103, 104 & 105, 106 & 107, 108 & 109, 110 & 111, 112 & 113, 114 & 115, 116 & 117, 118 & 119, 120 & 121, 122 & 123, 124 & 125, 126 & 127, 128 & 129, 130 & 131, 132 & 133, 134 & 135, 136 & 137, 138 & 139, 140 & 141, 142 & 143, 144 & 145, 146 & 147, 148 & 149, 150 & 151, 152 & 153, 154 & 155, 156 & 157, 158 & 159, 160 & 161, 162 & 163, 164 & 165, 166 & 167, 168 & 169, 170 & 171, 172 & 173, 174 & 175, 176 & 177, 178 & 179, 180 & 181, 182 & 183, 184 & 185, 186 & 187, 188 & 189, 190 & 191, 192 & 193, 194 & 195, 196 & 197, 198 & 199, 200 & 201, 202 & 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EXHIBIT "C 1 of 1"
VILLAGE I PHASE 3 OFFSITE IMPROVEMENTS
OVERSIZE AGREEMENT
STANDARD BID FORM AND PAY ITEMS - WATER, RECLAIMED WATER AND FORCE MAIN

"Oversized Utility Work" and "Developer Sized Utility Work"				
Description	Quantity	Unit	Unit Price	Total
Oversized Utility Work				
Maintenance Guarantee		LS		
P&P Bond		LS		
24" DIP WM		LF		
24" WM Gate Valve		EA		
WM Pipe Fittings and Restraints		LS		
WM Testing and Chlorination		LF		
20" DIP RW		LF		
20" RW Gate Valve		EA		
30" DIP RW		LF		
30" RW Gate Valve		EA		
RW Pipe Fittings and Restraints		LS		
RW Testing		LF		
16" PVC FM		LF		
16" FM Plug Valve		EA		
FM Pipe Fittings and Restraints		LS		
FM Testing		LF		
Oversized Utility Work Total				
Developer Sized Utility Work				
Maintenance Guarantee		LS		
16" DIP WM		LF		
12" PVC WM		LF		
16" WM Gate Valve		EA		
12" WM Gate Valve		EA		
WM Pipe Fittings and Restraints		LS		
WM Testing and Chlorination		LF		
16" DIP RW		LF		
12" DIP RW		LF		
12" RW Gate Valve		EA		
RW Pipe Fittings and Restraints		LS		
RW Testing		LF		
12" PVC FM		LF		
8" PVC FM		LF		
6" PVC FM		LF		
6" FM Plug Valve		EA		
FM Pipe Fittings and Restraints		LS		
FM Testing		LF		
Developer Sized Utility Work Total				
Oversized Utility Work Total				
Developer Sized Utility Work Total				
"Oversizing Cost"				

Note: The potable water main, force main and reclaimed water main's installation prices per inear foot include all installation costs, backfill and compaction and restoration.

EXHIBIT "D"

Draft Letter of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____

DATE: _____, 20__

BENEFICIARY:
ORANGE COUNTY, FLORIDA
C/O ORANGE COUNTY UTILITIES
9150 CURRY FORD ROAD
ORLANDO, FL 32825
ATTN: ASSISTANT MANAGER,
CUSTOMER SERVICE DIVISION

APPLICANT: _____

ATTN: [NAME AND TITLE] _____

PROJECT NAME: _____

AMOUNT: \$ _____ \$, _____.00 (____ THOUSAND AND 00/100 U.S. DOLLARS)

DATE OF EXPIRY: _____, 20__

AT THE REQUEST AND FOR THE ACCOUNT OF APPLICANT, WE, _____ ("ISSUER"), HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____, IN FAVOR OF ORANGE COUNTY, A CHARTER COUNTY AND POLITICAL SUBDIVISION OF THE STATE OF FLORIDA ("BENEFICIARY"), AND AUTHORIZE YOU TO DRAW ON ISSUER, IN THE MAXIMUM AGGREGATE AMOUNT OF \$ _____, _____.00 (____ THOUSAND AND 00/100 U.S. DOLLARS) IN UNITED STATES FUNDS, WHICH IS PAYABLE AT SIGHT AGAINST PRESENTATION OF YOUR DEMAND, WHEN ACCOMPANIED BY THIS LETTER OF CREDIT AND ANY OF THE FOLLOWING DOCUMENTS:

1. A STATEMENT SIGNED BY THE ORANGE COUNTY MAYOR OR AUTHORIZED REPRESENTATIVE READING AS FOLLOWS: "THE PERFORMANCE OF APPLICANT'S OBLIGATION HAS NOT BEEN COMPLETED YET AND THE LETTER OF CREDIT WILL EXPIRE WITHIN 45 DAYS FROM THE DATE OF DRAWING WITHOUT BEING EXTENDED OR REPLACED TO THE COUNTY'S SATISFACTION;" OR
2. A STATEMENT SIGNED BY THE ORANGE COUNTY MAYOR OR AUTHORIZED REPRESENTATIVE READING AS FOLLOWS: "ISSUER [CONFIRMER] HAS LOST ITS DESIGNATION AS A 'QUALIFIED PUBLIC DEPOSITORY' PURSUANT TO FLORIDA STATUTES, CHAPTER 280, AND AN ACCEPTABLE REPLACEMENT LETTER OF CREDIT HAS NOT BEEN RECEIVED BY THE COUNTY FOLLOWING NOTICE TO APPLICANT;" OR
3. A STATEMENT SIGNED BY THE ORANGE COUNTY MAYOR OR AUTHORIZED REPRESENTATIVE READING AS FOLLOWS: "THE DRAWING IS DUE TO APPLICANT'S FAILURE TO COMPLY WITH THE TERMS OF THE '[OWNER] _____ AGREEMENT' APPROVED BY THE ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS ON _____". THE LETTER WILL STATE THE SUM DUE UNDER THE TERMS OF THE AGREEMENT.

A SUM NOT TO EXCEED \$____.00 (____ THOUSAND AND 00/100 U.S. DOLLARS) SHALL BE AVAILABLE FOR PARTIAL OR FULL DRAW BY PRESENTATION OF YOUR DEMAND AT SIGHT IF ACCOMPANIED BY A WRITTEN STATEMENT AS DESCRIBED IN THE PRECEDING PARAGRAPHS.

THIS LETTER OF CREDIT SHALL BE IN FULL FORCE AND EFFECT UNTIL _____, 20____, [EXPIRATION DATE SHALL BE EXPIRATION OF THE AGREEMENT] AND WILL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ONE NINETY (90) DAY PERIOD UNLESS WE PROVIDE THE BENEFICIARY WITH WRITTEN NOTICE OF OUR INTENT TO TERMINATE THE CREDIT HEREIN EXTENDED, WHICH NOTICE MUST BE PROVIDED AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE OF THE ORIGINAL TERM HEREOF OR ANY EXTENDED TERM.

[IF A CONFIRMING BANK IS TO BE USED, INSERT THIS LANGUAGE: ISSUER NOMINATES _____ [NAME AND ADDRESS OF NOMINATED CONFIRMING BANK] TO CONFIRM THIS STANDBY LETTER OF CREDIT.]

DRAWS MUST BE PRESENTED NO LATER THAN _____, 20____, [EXPIRATION DATE] OR ANY EXTENDED EXPIRATION DATE AND MUST BEAR THE CLAUSE: "DRAWN UNDER LETTER OF CREDIT NO. _____ OF ISSUER, DATED _____, 20____[ENTER LOC DATE]."

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED; PROVIDED, HOWEVER, THAT ANY PAYMENT MADE UNDER THIS LETTER OF CREDIT SHALL REDUCE THE AMOUNT AVAILABLE UNDER IT.

WE, ISSUER, HEREBY AGREE THAT ALL DRAWS PRESENTED UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT SHALL BE DULY HONORED UPON PRESENTATION TO ISSUER [CONFIRMER] AT: [*note: must have tri-county address (Orange, Osceola, Seminole).*]

THIS LETTER OF CREDIT WILL BE CONSIDERED AS CANCELLED UPON RECEIPT BY US OF THE ORIGINAL LETTER OF CREDIT OR UPON ANY PRESENT OR FUTURE EXPIRY DATE HEREUNDER, WHICHEVER SHALL OCCUR FIRST.

THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998 (ISP98) (INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590) AND TO THE PROVISIONS OF FLORIDA LAW. IF A CONFLICT BETWEEN THE ISP98 AND FLORIDA LAW SHOULD ARISE, FLORIDA LAW SHALL PREVAIL. IF A CONFLICT BETWEEN FLORIDA LAW AND THE LAW OF ANY OTHER STATE OR COUNTRY SHALL ARISE, FLORIDA LAW SHALL PREVAIL.

VERY TRULY YOURS,

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

ISSUER

ISSUER