



Interoffice Memorandum

August 27, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Joseph Kunkel, P.E., Director, Public Works Department

CONTACT PERSON: Michael J. Drozeck, P. E., CFM, Manager
Stormwater Management Division
PHONE NUMBER: (407) 836-7945

SUBJ: **Interlocal Agreement between Orange County and the City of Ocoee
Regarding the Transfer of Jurisdiction of Spring Lake Drain Well and
Easements to the City of Ocoee**

Orange County and the City of Ocoee entered negotiations for the transfer of ownership of one drain well and associated pipes and related drainage easements at Spring Lake from Orange County to City of Ocoee control.

The City of Ocoee desires to own, maintain, control, and have responsibility over the existing well and associated drainage easements located at Spring Lake. The existing drain well is in poor condition and the City of Ocoee desires to abandon the existing well and replace it with a new drain well and associated pipes.

An Interlocal Agreement was negotiated between the two entities that reflects the desire of the City of Ocoee to maintain, control, repair, and improve the drain well at Spring Lake. The City of Ocoee approved the Interlocal Agreement on June 15, 2021.

Orange County Public Works has determined that the drain well and associated pipes at Spring Lake are no longer needed for County purposes.

Action Requested: Approval and execution of (1) Interlocal Agreement between Orange County, Florida and City of Ocoee, Florida regarding transfer of jurisdiction of Spring Lake drain well, (2) Bill of Sale, and (3) Assignment of Easements. District 2.

MD/DN/JC/mh

INTERLOCAL AGREEMENT

between

ORANGE COUNTY, FLORIDA

and

CITY OF OCOEE, FLORIDA

regarding

**TRANSFER OF JURISDICTION OF
SPRING LAKE DRAIN WELL**

Approved by the Orange County
Board of County Commissioners
_____, 20__

Approved by the City of Ocoee
City Council
June 15, 2021

INTERLOCAL AGREEMENT
between
ORANGE COUNTY, FLORIDA
and
CITY OF OCOEE, FLORIDA
regarding
TRANSFER OF JURISDICTION OF
SPRING LAKE DRAIN WELL

THIS INTERLOCAL AGREEMENT is made and entered into by and between **Orange County, Florida**, a Charter County and political subdivision of the State of Florida (“**County**”), and the **City of Ocoee, Florida**, a municipal corporation created and existing under the laws of the State of Florida (“**City**”).

RECITALS

A. The County has authority pursuant to Section 125.01, Florida Statutes, to enter into agreements.

B. The City has authority pursuant Section 166.021, Florida Statutes, to enter into agreements.

C. The County and the City have authority pursuant to Section 163.01, Florida Statutes, to enter into interlocal agreements.

D. The conveyance and transfer of real or personal property of the County to a municipality of this state is governed by Section 125.38, Florida Statutes.

E. The County currently operates and maintains that certain existing drain well and associated pipes located within the City’s limits off of Flewelling Avenue, as shown on **Exhibit**

“A” (the **“Existing Well”**).

F. The Existing Well is in poor condition, and the County and the City desire to abandon the Existing Well and replace it with a new drain well and associated pipes to be constructed on property owned by the City bearing Parcel Identification Number 16-22-28-8039-00-002, as shown on **Exhibit “A”** (the **“New Well”**).

G. The City desires to own (or accept dedication of, whatever the case may be), maintain, control, and have responsibility over the Existing Well and will properly abandon the Existing Well after completion of construction of the New Well.

H. The City also desires to accept an assignment of, and maintain, control, and have responsibility over, the easements associated with the Existing Well recorded in Official Records Book 660, Page 237 and Official Records Book 660, Page 238, both of the Official Records of Orange County, Florida (the **“Drainage Easements”**).

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties hereto agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated herein by reference.

2. **New Well.**

A. Construction. The City or its contractor shall construct the New Well in accordance with those certain plans attached hereto as **Exhibit “C”** (the **“Work”**) on or before June 30, 2022.

B. Permits. The City shall obtain any permits and other governmental approvals required for the Work.

C. Inspection. During the course of construction, each party may inspect the

Work. Upon completion of the Work, the City shall conduct a final inspection and identify any deficiencies in the Work. Once all identified deficiencies are addressed, the Work will be considered completed.

D. Costs of Construction. The County shall contribute \$25,000 towards the costs of the Work (the “**County’s Contribution**”). The City shall be responsible for all costs of the Work in excess of the County’s Contribution. Upon completion of the Work and correction of any identified deficiencies, the City shall invoice the County for the County’s Contribution. The County shall pay the County’s Contribution to the City within 30 days after receipt of the invoice for the County’s Contribution.

E. Design Changes; Change Orders. During the course of the Work, if the City or County observe, or otherwise become aware of, any defects, conflicts, or necessary changes to the Work, each party shall immediately notify the other party of the defects, conflicts, or necessary changes. The City and County agree that time is of the essence in making any decisions, interpretations, and/or changes with respect to design, materials, and other matters pertinent to the Work so as not to materially delay the work. As the City shall have sole ownership and maintenance responsibility for the New Well upon completion, the Parties agree that the City shall have the right of final determination regarding decisions, interpretations, design changes, and change orders for the Work as it deems necessary in its sole discretion, provided, however, that absent emergency circumstances posing a reasonable threat of death, bodily injury, or property damage, the City shall provide the County with a minimum of 7 days’ notice to review and comment on any proposed change orders that will increase the cost of the Work.

F. Operation and Maintenance of the New Well. Upon completion of the New Well, the City shall own, maintain, control, repair, and improve the New Well. The County

shall have no interest in or liability for the New Well.

2. Transfer of Jurisdiction of Spring Lake Drain Well.

A. Transfer of Jurisdiction. The County hereby transfers to the City, and the City hereby accepts and acknowledges jurisdiction over the following (collectively, “**Spring Lake Drain Well**”): (1) the Existing Well; and (2) the Drainage Easements.

B. Scope. The City’s jurisdiction over Spring Lake Drain Well means the authority and responsibility to maintain, control, repair, and improve Spring Lake Drain Well. The County shall have no further interest in or liability for the Spring Lake Drain Well.

3. Bill of Sale and Assignment of Drainage Easements.

A. Bill of Sale. The County shall execute and deliver a Bill of Sale in favor of the City substantially in the form attached hereto as **Exhibit “B,”** for the Existing Well.

B. Assignment of Drainage Easements. Furthermore, the County shall execute, record (at the City’s expense), and deliver a County assignment of drainage easement in favor of the City substantially in the form attached hereto as **Exhibit “D,”** for the Drainage Easements.

4. “As Is” and “Where Is” Transfer. The City, having had the opportunity to inspect the Spring Lake Drain Well prior to conveyance, accepts the Spring Lake Drain Well in its “AS IS” and “WHERE IS” condition, with no warranties whatsoever, except as otherwise provided in this Interlocal Agreement.

5. Abandonment of the Existing Well. Upon completion of the Work, the City, at the City’s sole cost and expense, shall abandon the Existing Well, cap, grout, or otherwise render the site of the abandoned Existing Well safe to the public and release the Drainage Easements. The City shall obtain any permits and other governmental approvals required to abandon the well.

6. Miscellaneous.

A. Validity. The County and the City each represents, warrants, and covenants to and with the other its respective authority and power under Florida law to enter into this Interlocal Agreement, acknowledges the validity and enforceability of this Interlocal Agreement, and waives any future right of defense based on claim of illegality, invalidity, or unenforceability of any nature. The County and the City each hereby represents, warrants, and covenants to and with the other that this Interlocal Agreement has been validly approved by its respective governing body, and that this Interlocal Agreement constitutes a legal, valid, and binding contract enforceable against the respective party in accordance with the terms hereof (assuming the due authorization, execution and delivery hereof by the other party hereto).

B. Ambiguities. Both parties have been allowed equal input regarding the terms and wording of this Interlocal Agreement and have had the benefit of consultation with their respective legal counsel prior to its execution, such that all language herein shall be construed equally against the parties, and no language shall be construed strictly against its drafter.

C. Headings. The headings or captions of sections or subsections used in this Interlocal Agreement are merely for the convenience of the parties for reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Interlocal Agreement.

D. Severability. The provisions of this Interlocal Agreement are declared by the parties to be severable only to the extent that the remaining provisions can effectuate the purpose and intent of the parties.

E. Governing Law; Venue; Attorney's Fees and Costs.

(1) This Interlocal Agreement shall be governed by and construed in

accordance with laws of the State of Florida.

(2) Venue for any action arising out of or related to this Interlocal Agreement shall be in the Circuit Court for the Ninth Judicial Circuit in Orange County, Florida.

(3) In the event a party deems it necessary to take legal action to enforce any provisions of this Interlocal Agreement, each party shall bear its own attorney's fees and costs at both the trial and appellate levels.

F. Entire Agreement. This Interlocal Agreement, along with any exhibits, constitutes the entire agreement between the parties regarding the subject matter hereof. Any prior oral or written agreements or understandings of any kind between the parties relating to the subject matter hereof are null and void and of no further effect.

G. Amendments. This Interlocal Agreement may be amended only by express written instrument approved by the Board of County Commissioners of the County and the City Council of the City, and executed by the authorized officers of each party.

H. Counterparts. This Interlocal Agreement and any amendments thereto may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

I. No Waiver of Regulatory Jurisdictions. Neither this Interlocal Agreement, nor any provision hereof, shall be construed as a waiver of any regulatory jurisdiction of the County that exists on the Effective Date or at any other time thereafter.

J. Assignment. Neither party may sell, assign, or transfer this Interlocal Agreement or any interest it may have hereunder, without prior written approval of the other party, such approval to be not unreasonably withheld, and provided that any such assignment shall not unreasonably interfere with the rights of the non-assigning party hereunder. All

covenants, terms, conditions, and provisions of this Interlocal Agreement shall be binding upon the parties hereto and shall extend to and be binding upon the successors and permitted assigns of the parties hereto.

K. No Third-Party Beneficiaries. This Interlocal Agreement is solely for the benefit of the formal parties hereto and no rights or cause of action shall accrue upon or by reason hereof, to or for the benefit of, any third party not a formal party hereto.

L. Notices. Any notice required to be given or otherwise given by one party to the other party shall be in writing and shall be deemed delivered when given by hand delivery; five (5) days after being deposited in the United States Mail, postage prepaid, certified, or registered; or the next business day after being deposited with a recognized overnight mail or courier delivery service; and addressed as follows:

If to the County: Director, Orange County Public Works Department
4200 South John Young Parkway
Orlando, Florida 32839

With a copy to: County Administrator
Orange County Administration Center
201 South Rosalind Avenue
Orlando, Florida 32802

With a copy to: County Attorney
Orange County Administration Center
201 South Rosalind Avenue
Orlando, Florida 32802

If to the City: City Manager
City of Ocoee, Florida
150 N. Lakeshore Drive
Ocoee, Florida 34761

With a copy to: City Attorney
Shuffield Lowman & Wilson, P.A.
1000 Legion Place, Suite 1700
Orlando, Florida 32801

In all cases, notices shall be deemed delivered to a party only upon delivery of copies to the persons indicated above in the same manner as for the party being notified. Either party may change its designated official or address for receipt of notice by giving notice of such change to the other party in the manner provided in this section.

7. Effective Date. This Interlocal Agreement shall become effective on the date of execution by the County or the date of execution by the City, whichever date is later.

[THE REST OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties have executed this Interlocal Agreement as of the
day and year indicated below.

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners


By: _____
Jerry L. Demings, Mayor

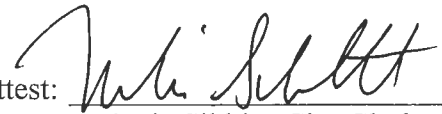
Date: _____, 20__

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

By: _____
Deputy Clerk

CITY OF OCOEE, a Florida municipal corporation

By: 
RUSTON JOHNSON
Mayor
Date: June 15, 2021

Attest: 
Melanie Sibbitt, City Clerk
Date: June 15, 2021

APPROVED BY THE OCOEE CITY
COMMISSION AT A MEETING HELD
ON June 15, 2021,
UNDER AGENDA ITEM NO. 11.

FOR USE AND RELIANCE ONLY BY
THE CITY OF OCOEE, FLORIDA;
APPROVED AS TO FORM AND
LEGALITY this 15th day of June, 2021.

SHUFFIELD, LOWMAN & WILSON, P.A.

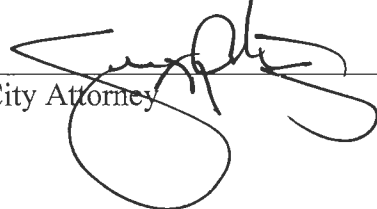
By: 
City Attorney

Exhibit “A”

Location of Existing Well and New Well

EXHIBIT "A"

That certain drain well on property in or adjacent to Spring Lake within the City of Ocoee that is located in Orange County Property Appraiser Parcel No. 16-22-28-0000-00-032 also known as 1405 Spring Lake Terrace, together with the associated in-flow pipes and pipes connecting the wells.

Attached hereto as Exhibit "B" is a diagram that depicts the drain well.



CITY OF OCOEE, FL
PUBLIC WORKS DEPARTMENT
301 MACUIRE ROAD
OCOEE, FL 34761
PH: 407-905-3170 ext. 1505
FAX: 407-905-3174

SPRING LAKE DRAINWELL EXISTING AND PROPOSED WELL LOCATIONS

EXHIBIT

A

Exhibit “B”

Bill of Sale

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS:

That **ORANGE COUNTY**, a charter county and political subdivision of the state of Florida (the "COUNTY"), for and in consideration of the sum of One Dollar (\$1.00) in lawful money (and other good and valuable considerations, the receipt and adequacy of which is hereby acknowledged) to it paid by **CITY OF OCOEE**, a Florida municipal corporation (the "CITY") has granted, bargained, sold, transferred, set over and delivered, and by these presents does hereby grant, bargain, sell, transfer, set over and deliver unto the CITY, its successors and assigns, the assets more particularly described on the attached **Exhibit "A"** (hereinafter the "Assets").

TO HAVE AND TO HOLD the same unto the CITY, its successors and assigns forever.

IN WITNESS WHEREOF, the COUNTY hereby executes this Bill of Sale on the date set forth below.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Jerry L. Demings
Orange County Mayor
Date: _____

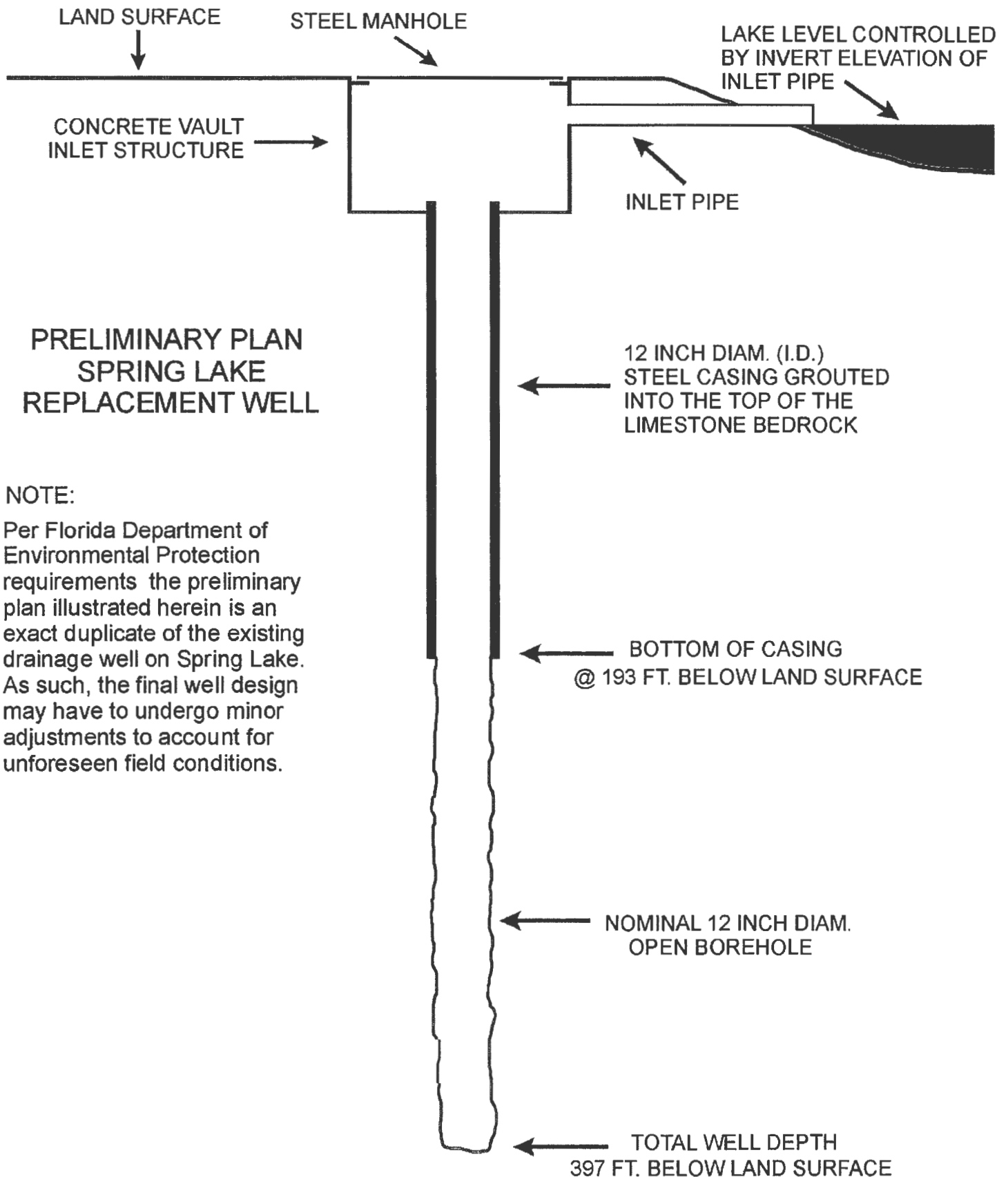
ATTEST: Phil Diamond, CPA, Orange County Comptroller
As Clerk to the Board of Orange County Commissioners

By: _____
Deputy Clerk

Date: _____

Exhibit “C”
Construction Work

EXHIBIT C



NOTE:

Per Florida Department of Environmental Protection requirements the preliminary plan illustrated herein is an exact duplicate of the existing drainage well on Spring Lake. As such, the final well design may have to undergo minor adjustments to account for unforeseen field conditions.

Exhibit “D”

Assignment of Drainage Easements

Prepared by and return to:

Aleas Koos, Assistant County Attorney
Orange County Attorney's Office
P.O. Box 1393
Orlando, FL 32802

Project: Transfer of jurisdiction of Spring Lake Drain Well

Assignment of Easements

This Assignment of Easements (the "**Assignment**") is made as of the latest day of execution (the "**Effective Date**") by Orange County, a charter county and political subdivision of the state of Florida, whose address is P. O. Box 1393, Orlando, Florida 32802-1393 ("**Assignor**"), to and in favor of City of Ocoee, a municipal corporation established under the laws of the State of Florida, whose address is 150 N. Lakeshore Drive, Ocoee, Florida 34761 ("**Assignee**").

A. Assignor is the holder of easement interests pursuant to that certain Drainage Easement recorded December 22, 1959, in Official Records Book 660, Page 237 and that certain Drainage Easement recorded December 22, 1959, in Official Records Book 660, Page 238, both of Official Records of Orange County, Florida (the "**Easements**").

B. By virtue of annexation by Assignee, all of the lands encumbered by the Easements are now located within the jurisdictional limits of the City of Ocoee.

C. Subject to the provisions of this Assignment and the provisions of the Interlocal Agreement between Assignor and Assignee for the transfer of jurisdiction of Spring Lake Drain Well, Assignor desires to assign, and Assignee desires to assume, all of Assignor's right, title, duties, obligations, and interest in the Easements.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

2. Assignment. Assignor hereby assigns and transfers to Assignee, to the extent assignable, all of the Assignor's right, title, duties, obligations, and interest in the Easements.

3. Assumption. Assignee hereby assumes from Assignor all of Assignor's rights, duties, and obligations under the terms and conditions of the Easements, including the maintenance of existing easement areas, and Assignee further agrees that, as a condition of this Assignment, Assignee shall assume and abide by all terms and conditions of the Easements.

4. Indemnification. Assignee will indemnify and hold harmless Assignor, its officials and employees, against any loss, cost, damage, or other expense (including attorneys' fees) that arises from use of the Easements after the Effective Date. Assignor will indemnify and hold harmless Assignee, its officials and employees, against any loss, cost, damage, or other expense (including attorneys' fees) that arises from use of the Easements on or before the Effective Date. Notwithstanding the foregoing, nothing in this Assignment is intended to be: (a) a waiver of Assignor or Assignee's sovereign immunity or the provisions of Section 768.28 of the Florida Statutes; or (b) an agreement by Assignor or Assignee to indemnify the other party for any loss, damage, or other

Project: Transfer of jurisdiction of Spring Lake Drain Well

matter, other than for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of Assignor or Assignee while acting within the scope of the employee's office or employment under circumstances in which Assignor or Assignee, if a private person, would be liable to the claimant, in accordance with the general laws of the State of Florida; or (c) an agreement by Assignor or Assignee to pay a claim or a judgment which exceeds the limits per claim and per occurrence set forth for tort liability in Section 768.28 of the Florida Statutes, which limits are hereby made applicable to all manner of claims against Assignor and Assignee related to this Assignment and are not confined to tort liability.

[SIGNATURE PAGE AND EXHIBITS FOLLOW]

Project: Transfer of jurisdiction of Spring Lake Drain Well

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment of Easements, as of the dates respectively written below.

(Official Seal)

ASSIGNOR

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Jerry L. Demings
Orange County Mayor

Date: _____

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

BY: _____
Deputy Clerk

Printed Name

Project: Transfer of jurisdiction of Spring Lake Drain Well

ASSIGNEE

CITY OF OCOEE,
a Florida municipal corporation

Print Name: _____

Print Name: _____

RUSTY JOHNSON
Mayor

Date: _____

Attest: _____
Melanie Sibbitt, City Clerk

Date: _____

**APPROVED BY THE OCOEE CITY
COMMISSION AT A MEETING HELD
ON _____, 2021,
UNDER AGENDA ITEM NO. _____.**

**FOR USE AND RELIANCE ONLY BY
THE CITY OF OCOEE, FLORIDA;
APPROVED AS TO FORM AND
LEGALITY this ____ day of _____, 2021.**

SHUFFIELD, LOWMAN & WILSON, P.A.

By: _____
City Attorney

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20__, by Rusty Johnson, as Mayor, and Melanie Sibbitt, as City Clerk, of the City of Ocoee, a Florida municipal corporation, on behalf of the corporation. They are personally known to me or produced _____ and _____ as identification.

Notary Public, State of Florida
Print Name: _____
My Commission Expires: _____