**LAKE MARY CITY COMMISSION**

**Lake Mary City Hall**
**100 N. Country Club Road**

**Regular Meeting**
**AGENDA**
**THURSDAY, FEBRUARY 06, 2014 7:00 PM**

1. **Call to Order**

2. **Moment of Silence**

3. **Pledge of Allegiance**

4. **Roll Call**

5. **Approval of Minutes: December 19, 2013**

6. **Special Presentations**

   A. **Special Recognition to Parks & Recreation Department Employee - "City Employee of the 4th Quarter" - Radley Williams, Recreation Chief**

   B. **Special Recognition to Employees of the Lake Mary Police Department: "2013 Civilian of the Year" - Charlotte Johnson, Accreditations Coordinator and "2013 Police Officer of the Year" - Lena Delgenio, Police Officer First Class**

   C. **Proclamation - "National Girl Scout Cookie Weekend"**

7. **Citizen Participation**

**8. Unfinished Business**

**9. New Business**

**A. Final Subdivision Plan with variance(s) for Pine Tree Terrace, a nine-lot single-family residential subdivision located at 385 Pine Tree Road, M.I. Homes of Orlando, LLC/Brian Dalrymple, applicant (Public Hearing) (Steve Noto, Senior Planner)**

**B. Request for a variance from Chapter 160, Resource Protection Standards, 160.07 (B) (2) (b), to construct a swimming pool at 270 Humphrey Road, Tracy & Kelly Potter, applicant (Public Hearing) (Gary Schindler, City Planner)**

**C. Ordinance No. 1502 - Amend Chapter 92 of the Code of Ordinances, providing for fees for participation in activities at the Senior Center - First Reading (Public Hearing) (Deb Barr, Senior Program Manager)**

**D. Resolution No. 928 - Joint Participation Agreement with FDOT for SunRail Station Connectivity Upgrades (Steve Noto, Senior Planner)**

**E. Resolution No. 931 - Adopting Amendment #2 to a Local Funding Agreement with Florida Department of Transportation for enhancements to the SunRail Station to rescind Resolution No. 927 which provided for Amendment #1 (John Omana, Community Development Director and Steve Noto, Senior Planner)**

**F. Resolution No. 929 - Opposing legislation that would mandate the use of Uniform Chart of Accounts (Dianne Holloway, Finance Director)**

**G. Authorize purchase of Water Treatment Plant Degasifier Packing Replacements (Bruce Paster, Public Works Director)**

**a. Resolution No. 930 - Amending the Fiscal Year 2013-2014 Budget to appropriate funds for purchase**

**H. Revised Interlocal Agreement between Seminole County and the City for the Florida Yards & Neighborhoods Program (Bruce Paster, Public Works Director)**

**10. Other Items for Commission Action**

**11. City Manager's Report**

**A. Items for Approval**

**a. Potential for Advisory Board Consolidation**

**b. Computer purchases and surplus**

**B. Items for Information**

**12. Mayor and Commissioners Report**

**A. Election of Deputy Mayor**

**13. City Attorney's Report**

**14. Adjournment**

**THE ORDER OF ITEMS ON THIS AGENDA IS SUBJECT TO CHANGE**

**Per the direction of the City Commission on December 7, 1989, this meeting will not extend beyond 11:00 P. M. unless there is unanimous consent of the Commission to extend the meeting.**

**PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY ADA COORDINATOR AT LEAST 48 HOURS IN ADVANCE OF THE MEETING AT (407) 585-1424.**

**If a person decides to appeal any decision made by this Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she 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. Per State Statute 286.0105.**

**NOTE: If the Commission is holding a meeting/work session prior to the regular meeting, they will adjourn immediately following the meeting/work session to have dinner in the Conference Room. The regular meeting will begin at 7:00 P. M. or as soon thereafter as possible.**

**UPCOMING MEETINGS: February 20, 2014**

MINUTES OF THE LAKE MARY CITY COMMISSION MEETING held December 19, 2013, 7:00 P.M., Lake Mary City Commission Chambers, 100 North Country Club Road, Lake Mary, Florida.

I. Call to Order

The meeting was called to order by Mayor David Mealor at 7:05 P.M.

II. Moment of Silence

III. Pledge of Allegiance

The Pledge of Allegiance was led by Boy Scout Troop 242.

IV. Roll Call

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| Mayor David Mealor | Jackie Sova, City Manager |
| Commissioner Gary Brender | Carol Foster, City Clerk |
| Commissioner George Duryea | Dianne Holloway, Finance Director |
| Commissioner Allan Plank | John Omana, Community Development Dir. |
| Deputy Mayor Jo Ann Lucarelli | Gary Schindler, City Planner |
| | Steve Noto, Senior Planner |
| | Randy Petitt, Human Resources Manager |
| | Bruce Paster, Public Works Director |
| | Bryan Nipe, Parks & Recreation Director |
| | Craig Haun, Fire Chief |
| | Steve Bracknell, Police Chief |
| | Bruce Fleming, Sr. Code Enforcement Offc. |
| | Katie Reischmann, City Attorney |
| | Mary Campbell, Deputy City Clerk |

V. Approval of Minutes: December 5, 2013

**Motion was made by Commissioner Plank to approve the minutes of the December 5, 2013, meeting, seconded by Commissioner Brender and motion carried unanimously.**

VI. Special Presentations

There were no special presentations at this time.

VII. Citizen Participation

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David Leavitt, 491 Queensbridge Drive, Lake Mary, came forward. He stated he was Chairman of the Libertarian Party of Seminole County. He distributed a pocket version of the Declaration of Independence and the Constitution.

Mr. Leavitt said the purpose for him speaking tonight was about awareness of our Constitution and specifically about our Fourth Amendment Rights. He said it was on Page 43 of the handout. He said he had three extra copies and if anyone wanted one to see him after the meeting. He emphasized what most people don't understand about government laws and ordinances. Any government entity in the U.S. whether it is federal, state, county, or city can pass just about any law or ordinance that they want to. That's how crazy laws come about without regard to the Constitution. Many government entities pass these kinds of unconstitutional laws and ordinances. Often only when it is too late or when a citizen brings about justice in their community, the state, or the U.S. government itself does a law or ordinance get repealed.

Mr. Leavitt said these bad and unconstitutional laws end up harming citizens, communities, state and our federal government as in the NSA spying scandal that a few days ago a federal judge ruled unconstitutional. This amplifies my point about any government entity being able to pass such unconstitutional laws. Maybe you remember not too long ago that you might have your phone lines tapped by law enforcement officers if you were suspected of doing something illegal, but only after law enforcement received a search warrant signed by a judge. What happened? 9-1-1 happened. The federal government went into a tizzy followed by states and communities passing unconstitutional laws that were supposedly designed to protect us from external terrorist threats.

Mr. Leavitt said the Department of Homeland Security was formed as a way to marry all of the security agencies in the country like the FBI, CIA, the NFA and others so that a single source would be available to make sure everyone is working in union. At some point the federal government decided it was okay to spy on our citizens without a cause or warrant all in the name of the war on terror and allowed themselves to do so by forming their own secret FISA court with their own judge who signs blanket warrants for the purpose of spying on citizens, both foreign and domestic, in sweeping fashion under the disguises and methods such as mega data collection and so on. People who fight for liberty and justice for all have always known it's unconstitutional.

Mr. Leavitt said fast forward to the year 2013 and look around. Did you notice all the secret surveillance cameras going up in communities like Orlando, Winter Park, and soon the City of Winter Springs? He said he would read quotes from Winter Springs Police Chief Kevin Brunelle concerning the surveillance cameras that will be going up in Winter Springs using an $84,000 Department of Homeland Security grant. He said he hoped Chief Bracknell wasn't licking his chops on the thought of installing cameras here in our city if they're not here already. As reported by Jeff Allen, a reporter from Bay 9 News, on Friday, November 1, 2013: If you are out and about in Winter Springs, soon the police could be watching your every move. The Winter Springs Police Department just got an $84,000 grant from the U.S. Department of Homeland Security to install

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cameras all over the city to prevent terrorism in Winter Springs. "If we're not prepared we can't properly deal with the situation", said Winter Springs Police Chief Kevin Brunelle. The police department hopes placing cameras in public areas, even public parks, will act as a deterrent. The police won't be revealing where some of the cameras are. Those cameras will remain unknown to the public. Even though the cameras will be rolling on everything coming and going, the police say the only reason they will be rewinding the video and looking back at it is to look at something specific. The police chief said by using the cameras they won't have to pay officers to conduct surveillance. That's sort of a contradiction. He said it would save money and after the police use the grant money, they will have to tap into the taxpayers' money to maintain the surveillance cameras. These are surveillance cameras and not security cameras.

Mr. Leavitt said he was here to remind and ask you to please before passing any further city ordinance to simply ask yourself one question above all others. Is it constitutional? If the answer to that question is no or questionable, do not give it further consideration.

No one else came forward and citizen participation was closed.

VIII. Unfinished Business

A. Ordinance No. 1501 – Zoning Text Amendment for proposed revisions to Section 154.09 revising the definition of Pain Management Clinic – Second Reading (Public Hearing) (Gary Schindler, City Planner)

The City Attorney read Ordinance No. 1501 by title only on second reading.

Mr. Schindler stated staff had nothing additional to add.

Mayor Mealor asked if anyone wanted to speak in reference to Ordinance No. 1501. No one came forward and the public hearing was closed.

**Motion was made by Commissioner Brender to approve Ordinance No. 1501 on second reading, seconded by Deputy Mayor Lucarelli and motion carried by roll-call vote: Commissioner Brender, Yes; Commissioner Duryea, Yes; Commissioner Plank, Yes; Deputy Mayor Lucarelli, Yes; Mayor Mealor, Yes.**

IX. New Business

A. Request to reduce Code Enforcement Lien for 377 North Country Club Road; Bank of America (Bruce Fleming, Senior Code Enforcement Officer)

Bruce Fleming, Senior Code Enforcement Officer, came forward. He said the Lake Mary Code Enforcement Board had a public hearing on this case on May 21, 2013. The Board found that the property owner, Bank of America and Maria McGowen, had violated the Lake Mary Property Maintenance Code by failing to comply with provisions of said code related to overgrowth of weeds and grass, removal of all trash, debris and

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rubbish, and registering the property with the Office of the City Clerk. The property owners were required to bring the property into compliance with the Board's order within 14 calendar days of the hearing or pay a fine of $250.00 per day. The Board convened a compliance hearing on September 17, 2013. At a compliance hearing it was determined that the property owners had not brought the property into compliance. The Board ordered staff to file a lien in the amount of $250.00 per day for 102 days of non-compliance beginning on June 7, 2013, through September 17, 2013, and continued to accrue daily through November 23, 2013.

Mr. Fleming said on November 23, 2013, Code Enforcement conducted a subsequent inspection which revealed compliance had been obtained. An Affidavit of Compliance was filed for a total of 169 days of non-compliance. The outstanding lien balance of $42,250.00 and the filing fee of $47.00 along with interest of $837.45 calculated at 4% per annum was also attached for a grand total outstanding of $43,134.45 through December 31, 2013.

Mr. Fleming said on November 27, 2013, the property owners submitted a request for consideration by the City Commission to reduce the outstanding lien to $4,250.00, or roughly 10 cents on the dollar.

Mr. Fleming said a re-inspection of the property revealed the property remains in compliance at this time.

Mr. Fleming showed photographs of the property when the Code Enforcement Board heard the case. He showed a photograph of how the property looked this morning with all the trash, rubbish, debris, overgrown grass and weeds and things of that nature have been taken care of.

Mr. Fleming said the property is currently in compliance with the Board's order. Staff offers no objections to consideration of abatement of the lien provided full remittance is made within 30 days of the reduction.

Commissioner Duryea asked if this request goes before the Code Enforcement Board.

Mr. Fleming said when it was in their privy the Code Enforcement Board filed the lien which took the Code Enforcement Board out of the circle for resolution. The lien runs in favor of the City Commission.

Commissioner Duryea asked if this property was in foreclosure and pretty much owned by the bank.

Mr. Fleming said it is in foreclosure and is pretty much owned by the bank.

Commissioner Duryea asked if we were letting Bank of America off the hook.

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Mr. Fleming said that was out of his realm. He impressed upon the Commission that his goal in these types of situations is compliance. He didn't think we are here to be punitive or to punish. We are here to add or substantiate penalty for not following what the Board has directed. If we can get compliance we are generally where we need to be with handling code enforcement cases.

Commissioner Duryea asked if the house was occupied during this time.

Mr. Fleming answered negatively. This house has been abandoned for approximately a year.

Commissioner Plank asked if he was correct that there is no sale pending on this property.

Mr. Fleming said to his knowledge there is no sale pending.

Commissioner Plank said if we make this adjustment what are the assurances they will remain in compliance and what enforcement ability do we have at that point.

Mr. Fleming said if the Commission decides to go with the bank's request to lower the lien to $4,200.00 if paid within 30 days, the case will be closed. However, should a recurrence happen on this property, it is immediately taken back to the Code Enforcement Board for re-examination. At such time the Code Enforcement Board may invoke penalties of up to $500.00 per day for each day it continues. It will run until the property is brought into compliance again. You may have the bank come before you a second time with a much more substantial fine. At this point we can only go with what is before us and that is that the property is in compliance and staff has no objection to the reduction the bank has requested.

Commissioner Plank said the fact that it's in compliance is the reason the bank is asking for the adjustment.

Mr. Fleming answered affirmatively.

Deputy Mayor Lucarelli asked if this covers staff time, paperwork and effort that has been put in on our part.

Ms. Sova said she felt this was a fair offer.

**Motion was made by Deputy Mayor Lucarelli to approve the reduction of Code Enforcement Lien for 377 North Country Club Road to $4,250.00 provided it is paid in full within 30 days, seconded by Commissioner Brender.**

Commissioner Duryea said he didn't think somebody should be held culpable for something they weren't there to fix. This is a 90% reduction. He said he would approve

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a reduction in the amount that accrued while the house was occupied when somebody could do something about it.

Mr. Fleming said when this problem manifested itself to Code Enforcement the house was vacant. He said he had never had contact with anyone living on the premises.

Ms. Reischmann pointed out that you always hear the bank saying that they have no way to correct the violation until they finish the foreclosure process, but in fact their mortgages do give them the right to correct code violations.

Commissioner Plank asked when the bank formally initiated foreclosure.

Mr. Fleming said he didn't have that record before him. The house was abandoned for some time. The grass and tree limbs and things of that nature is what started the process of going out there to deal with the issues on the property. He said he would dare to guess at least six months prior to him getting involved the bank had started its foreclosure procedure.

Commissioner Plank said once it went into foreclosure the ordinance we passed some time back did require they maintain the property.

Mr. Fleming said that is correct.

Commissioner Plank said he would think the date would be key in doing the adjustment.

Mayor Mealor asked if this request was consistent with some of the past Commission action.

Mr. Fleming said the Commission has on several occasions listened to the pleading from various lending institutions insofar as reductions are concerned. He believed in every one of the reductions that has been brought before you by his office the Commission has provided relief to the person requesting consideration.

**Motion denied by roll-call vote: Commissioner Duryea, No; Commissioner Plank, No; Deputy Mayor Lucarelli, No; Commissioner Brender, No; Mayor Mealor, No.**

Deputy Mayor Lucarelli asked Mr. Fleming if it could be looked up what percentage we have reduced it in the past.

Mr. Fleming said the Commission reduced a $36,000.00 lien to $18,000.00+, reduced a $16,000.00 lien to $2,100.00, and another reduced from about $75,000.00 to less than $5,000.00.

Commissioner Plank said regarding those previous reductions, he asked how many were made in conjunction with a pending sale.

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Mr. Fleming said one.

Commissioner Brender requested Mr. Fleming go back and get some firm dates. We need something we can hang our hat on and say this is what we're doing, when did it hit foreclosure, when did the bank have it. Instead of pulling a number out of the air, we can try to come up with something based on some real dates.

B. Request to reduce Code Enforcement Lien for 455 Chickee Court; Kenneth Rummel (Bruce Fleming, Senior Code Enforcement Officer)

Bruce Fleming, Senior Code Enforcement Officer, came forward. He said the Lake Mary Code Enforcement Board held a public hearing on this case on September 18, 2007. The Board found that the property owner, Kenneth Rummel, had violated the Lake Mary Code of Ordinances, Chapter 155 Subdivision Regulations, Appendix G, Swimming Pool Regulations, by failing to maintain a swimming pool free of dirty, stagnant, uncirculated water. The property owner was required to bring the property into compliance within 10 days of the hearing or pay a fine of $200.00 per day for each day the violation continued. The violation was corrected and no fine was attached.

Mr. Fleming said after receiving new complaints Code Enforcement conducted a subsequent inspection on April 9, 2008, whereby the property owner was found to have repeated the violation. The Board convened a repeat violation hearing on July 15, 2008, and determined that the property owner had repeated the violation. They were ordered to pay a fine of $200.00 per day for 14 days of non-compliance beginning on July 1, 2008, to July 14, 2008. On July 15, 2008, Code Enforcement certified compliance with the Board's order and a total outstanding fine of $2,800.00 was attached to the property at 4% per annum.

Mr. Fleming said the complaints started coming in again and the property was re-inspected on September 10, 2008, and was found to be in violation of the Board's order once again. The Board convened another repeat violation hearing on September 16, 2008, and determined that the property owner had repeated the violation and was ordered to pay a fine of $300.00 per day beginning on September 10, 2008, and for each day the violation continued at 4% annum.

Mr. Fleming said on December 9, 2013, the property owner submitted a request for consideration by the City Commission to reduce the outstanding lien of $2,800.00 for 14 days of non-compliance and the outstanding lien of $581,400.00 for 1,938 days of non-compliance. The total outstanding liens at this time are $584,200.00. The total filing fees at this time are $119.50. The total interest on this code case is $68,445.41 and it continues to grow. The grand total through December 31, 2013, is $652,764.91.

Mr. Fleming said staff verified that this property was listed for sale on June 8, 2013, and there was a cash offer submitted that was due December 2, 2013, with the anticipated closing date of January 3, 2014, contingent on the seller obtaining a release or satisfaction of the City's liens.

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Mr. Fleming showed photographs on the overhead of the pool the Code Enforcement Board saw. It was the dirty, stagnant water and they were concerned about mosquitoes and things of that nature. He showed photographs of what he saw today of the pool enclosure and screens on the back patio that have been ripped from the 2 X 4 that holds it in place. He showed a photo inside the back patio going downward to the swimming pool area. He showed a photo of the pool now and there is dirty stagnant water that remains in the pool at this time. The enclosure is starting to completely collapse which causes great concern for Code Enforcement and the neighbors.

Mayor Mealor said Mr. Fleming's request is to have the City Attorney draft a Reduction of Lien Agreement in an amount agreed to by the City Commission contingent upon a successful closing within 30 days.

Mr. Fleming said that was correct.

Ms. Sova said there has been no water consumption at the home since April so it appears it is vacant. Our dealings have been mostly by phone with the owner or through the realtor with the claim he is out of town.

Commissioner Duryea said this has been going on longer than September 2007. The homeowners' association was fighting with Mr. Rummel to clean up his property, notwithstanding the swimming pool but just the property around it longer than that. There was a rumor that the person that owns the house was living in it a good deal of that time. He said he didn't know that to be true.

Ms. Sova said there has been consistent water consumption in the home up until this past April.

Commissioner Duryea said the electricity has never been shut off.

Ms. Sova said she wouldn't know about the power. Through the years the customer would come in and pay the bills. It was just up until this past April where it is apparent the house has become vacant.

Commissioner Duryea said it seemed $300.00 a day was a lot more expensive than having a pool service come in at $40.00 a month and to have the grass is cut. He thought this was negligence. Is $652,000.00 a ludicrous amount? Very much so.

Mayor Mealor said we have an option of somebody purchasing the property. We have a situation similar to the long running situation of the non-complying wall that once we had a contract in hand, part of the settlement would be that if we would waive that it would be corrected. It was corrected and brought up to code. The neighbors are beneficiaries as is the new person willing to invest in the City of Lake Mary. He said the agent is here this evening and he also serves on one of our boards. This is an opportunity. What has happened out there is very unfair and unfortunate. People have

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made a conscious investment in our community. This is an opportunity where hopefully this can be corrected. When you look at that it is unacceptable and is not in keeping with the standards that community expects of its residents and what we expect of our community. This is one we need to make right because if there's a contract in hand and can get that closed within 30 days, it is in everyone's best interest to get this thing off the books.

Mr. Fleming said the agent for the property owner is present and could lend more to the situation on the contract and where we're at on closing.

Commissioner Duryea asked if there was a statutory time for closure on a lien like this.

Ms. Reischmann said five years from the date it is recorded.

Commissioner Duryea asked when this was recorded.

Ms. Reischmann said we have repeats as well. We have an '07 but have some repeat violations in '08.

Mayor Mealor said this has been an ongoing problem. It is not going to correct itself.

Commissioner Duryea said if foreclosure were contemplated we could go back to which date.

Ms. Reischmann said the second lien. They convened the violation in September '08 but she didn't know the date the lien was filed.

Mr. Fleming said it was recorded on September 25, 2008.

Commissioner Duryea said it is over five years. If we were to close where do we stand in the hierarchy of owning that property.

Ms. Reischmann said she was assuming the first mortgage was before '07. We would have to buy it subject to the first mortgage.

Commissioner Duryea asked if there were any other liens on the property.

Mr. Fleming said not that he was aware of.

Ms. Sova said we found there is a first and a second mortgage.

Mr. Fleming answered affirmatively.

Commissioner Duryea said if push came to shove, we would foreclose on the property, demolish the house and sell the property. He said he was assuming there are no other liens.

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Ms. Reischmann answered affirmatively if we are assuming there are no other liens.

Commissioner Duryea said there would be legal fees.

Ms. Reischmann said to foreclose varies a lot but thought about $12,000.00 to foreclose and $12,000.00 to demolish.

Mayor Mealor asked where they got on the discussion of purchasing the home.

Commissioner Duryea said there is an intrinsic value here that we are not giving away but just hoped the homeowner is not getting anything out of this deal. We are relieving him of all of his responsibility which he has been irresponsible for the past eight years.

Commissioner Plank asked how far in advance of the closing do we have to clear the liens.

Ms. Reischmann said they would like it cleared as soon as possible.

Commissioner Plank said this is a long standing problem that needs to be fought. He said his concern is that we clear the lien and the sale falls through then where do we go.

Ms. Reischmann said the intention in speaking with the City Manager is that we would wait until the date of closing to provide the Satisfaction of Lien.

Commissioner Plank said that is going to be done legal.

Ms. Reischmann said it absolutely will be done legally. It doesn't work so well for them with their closing. That's how mortgages are handled. You don't get your Satisfaction of Mortgage before you close; it comes later in the mail. It could be handled to where we make them sweat it and we could make them late so we are sure that it closes.

Deputy Mayor Lucarelli said she would like to do that, not to make them sweat it per se but to cover our butts if they pull something. She asked what we were suggesting as a number to reduce it to and still covering our costs for the past eight years.

Commissioner Brender said this is just gross negligence. This is a valuable home and was anxious to get it fixed up. He agreed with George's comments that he doesn't know what's going to happen with the mortgages and didn't know if the bank is going to write them off. He said he didn't want an owner who has been negligent for years walking away with a $200,000.00 profit selling the house and we just reduced his $687,000.00 lien. He asked how they fixed that.

Ms. Reischmann said she had not seen the contract and how it compares with the mortgages.

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Ms. Sova said she didn't know the relation on the mortgages other than there are two of them. One of them is fairly recent.

Mr. Fleming said he was told it was last June or July for $42,000.00.

Commissioner Brender said the home is not in foreclosure which means those mortgage payments are being made by someone. He said if the homeowner has $150,000.00 in mortgages and turns around and sells it for $400,000.00 and we forgive him $600,000.00 in liens sounds like too good of a deal. He said he didn't know how to get to a number.

Mayor Mealor said one of the dilemmas we have right now is to just look at the history of this property. We are $600,000.00+ right now. If we do nothing it will be at some point in time $1.2 million and will be absolutely no change whatsoever. Based on the history, we can put any fee on this that we want but the reality is it is probably going to be the buyer that has to absorb it. If the sale can close within 30 days he thought this is one of those times we have to step back and look at the bigger picture. This has been going on long before 2008 and is a consistent pattern. Nothing is going to change. You can put any dollar amount out there that you want and it is going to be passed on to the buyer. There is no need to think we are going to make the current owner whether he has one, two or three mortgages to modify any behavior. He didn't think that was the case. He said he didn't like it but are dealing with the reality. It is an escalating figure, will be a multiplier effect and nothing is going to change.

Commissioner Brender asked if we had any concept of the cost to the City.

Ms. Sova said we pulled previous legal bills related to code enforcement cases and were just about $1,000.00.

Mr. Fleming interjected it was $1,050.00 for legal fees.

Ms. Sova said there has been staff time over the years for probably another $1,000.00.

Ms. Reischmann said the City Manager had the contract and the contract amount is $270,400.00. The buyer is America's Interactive, Inc. She imagined that was a real estate investment company.

Commissioner Duryea asked if there was a way to get compliance before closing.

Ms. Sova answered negatively.

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Mayor Mealor said Mr. Fleming has stated for the public record that the legal bills are $1,050.00. The request to us is to have the City Attorney through the City Manager draft a reduction in the lien agreement in the amount agreed to by us. He suggested

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looking at the $1,050.00 and having the City Manager and staff determine the total cost related to staff time from day one to current and that be the amount.

Commissioner Duryea said if we do that where would we be on the issue we just went through. We have to be fairly consistent on how we treat these unless there is some extenuating circumstances.

Mayor Mealor said if we do as suggested or was actually recommended in the first item that was denied, he thought they are being consistent.

Commissioner Brender said they are different animals. One is a foreclosure and one is a sale.

Mayor Mealor said he was thinking about on the northeastern part of the community where we had the long-term lien against the non-conforming wall. We had a potential buyer in place. The sale was contingent on the waiver. We waived, the sale went through, the wall was brought up to compliance and everybody, including the neighbors, are most pleased. He thought $1,050.00 plus whatever staff time back to day one for the amount of the lien reduction to be entered into.

Commissioner Brender said he didn't see that they had much else to do. We have to get the house fixed up and in a position where you can actually get some people living in it and taking care of it. Because we do have a situation where we have a closing pending, he was willing to say let's cover our costs and get the thing gone.

**Motion was made by Commissioner Brender to have the City Manager along with Mr. Fleming and the City Attorney come up with a lien which closely reflects actual costs to the City to maintain these various liens from day one and that will be levied as the lien reduction amount contingent upon closing of the property within 30 days. Seconded by Deputy Mayor Lucarelli.**

Deputy Mayor Lucarelli asked if that meant we would hold the Satisfaction of Lien until closing.

Ms. Reischmann answered affirmatively.

Deputy Mayor Lucarelli said she was good with that. If they don't go to closing then all bets are off.

Ms. Reischmann said also contingent on full payment of that amount at closing or it goes back to the original lien amount

**Amended motion was made by Commissioner Brender to have the City Manager along with Mr. Fleming and the City Attorney come up with a lien which closely reflects actual costs to the City to maintain these various liens from day one and that will be levied as the lien reduction amount contingent upon closing of the**

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**property within 30 days and contingent on full payment of that amount at closing or it goes back to the original lien amount. Seconded by Deputy Mayor Lucarelli and motion carried by roll-call vote: Commissioner Plank, Yes; Deputy Mayor Lucarelli, Yes; Commissioner Brender, Yes; Commissioner Duryea, No; Mayor Mealor, Yes.**

C. Resolution No. 927 – SunRail Station Connectivity Upgrades Supplement Amendment Number 1 (John Omana, Community Development Director and Steve Noto, Senior Planner)

The City Attorney read Resolution No. 927 by title only.

Mr. Omana said we have approached an exciting time in this process involving the enhancement funds. Since May of this year City Staff has been sitting with representatives of FDOT with a number of engineers, members of the Federal Transit Authority, and a number of technical folks to figure out how we can use the balance of our enhancement funds to improve the SunRail Station with the earmark that was brought forth years earlier. Since May we have been going back and forth with the people in Washington and were finally able to get the green light to move forward with a number of enhancements that we are very excited about. Staff recommends we move forward and the Commission adopt the resolution.

Mr. Noto said we have been working on this enhancement agreement document for some time. In 2011 we came before the Commission and they approved a number of enhancements based on funding that was made available to the City from the federal government.

Mr. Noto said we are at Phase II now. He showed an aerial on the overhead. He said what is shown is not out there right now. We know the amount of construction going on for the SunRail Station was done before the properties were purchased by FDOT and before the platform was starting to be constructed on the railroad. We have asked for a number of items that deal with connectivity and safe pedestrian access.

Mr. Noto said he would go over what was involved in our Phase II enhancement requests. The first one was a six-foot-wide sidewalk located on the west side of North Palmetto which will get folks from West Lake Mary Boulevard up to the platform, and a new six-foot-wide sidewalk roughly 1,000 feet in length that would generally take folks from the platform behind the police station onto Lakeview Avenue and to Country Club. You would have a direct connect taking you to the Downtown core and where we are this evening. There would be a crosswalk at the intersection of Lakeview and Country Club and as part of that the installation of rectangular rapid flashing beacons which give the pedestrian the right-of-way at the crosswalk, the entry sign at the intersection of Palmetto and Lake Mary Boulevard, and a traffic signal at the intersection of Palmetto and Lake Mary Boulevard. We are coordinating with Seminole County as well as Lynx regarding that item. That will get the Lynx buses out of the SunRail Station back to the

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Boulevard without cutting through the Downtown core taking into account many of the improvements we are working on today.

Mr. Noto said this is an amendment to the already adopted local funding agreement with FDOT. If approved we will owe FDOT our portion of the 80/20 match which would come out to $92,310.00. We have been given access to almost half a million dollars from the federal government to have these enhancements provided to us. We are recommending approval of Resolution No. 927.

Mayor Mealor said as a personal privilege, he thanked Mr. Leavitt for providing copies of the Declaration of Independence and the Constitution. It has been noted that this may be one of the most important documents ever written in the history of mankind. It allows us to do what we do in a way that very few people on this planet have.

Commissioner Brender said the Chief of Police has expressed concern about the sidewalk going behind the police station. He asked if there were any thoughts about what we want to build on the right hand side of the sidewalk in order to make sure that we do not have any intrusion on police property by what could be in the future a fair number of people getting off the train.

Mr. Noto said the pathway is currently under design with CPH so anything the Commission wishes to add in regards to lighting, fencing, benches to please let us know. We were already considering lighting.

Commissioner Brender said he would like to see a wall or something decorative.

Commissioner Duryea asked why the yellow line on the exhibit that goes up toward the station stopped.

Mr. Noto said the colors, lines and circles were just a general location of where everything would be. We haven't started designing that sidewalk yet but the concept behind it is to have it directly connect to the sidewalk on the Boulevard and to directly connect to the platform so you can safely cross to get to Crystal Lake.

Ms. Sova said there would also be a sidewalk connection when the Mahnken building attaches to the platform. She thought that might be the small gap that Commissioner Duryea was seeing.

Mr. Noto said Mr. Mahnken's plan is to build his building directly abutting the platform so folks will have the ability to go in and out of his building.

Commissioner Brender said but you can cross from the south side to the north side just about where the yellow line ends.

Mr. Noto answered affirmatively.

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Commissioner Plank asked the Police Chief's concern about people walking by the police station.

Chief Bracknell said there is always going to be concern about people walking through the Police Department's back lots with the different procedures and things we have going on. It's not something that is going to be insurmountable. He spoke with the City Manager about this and was sure it would work out.

**Motion was made by Commissioner Brender to approve Resolution No. 927, seconded by Commissioner Plank.**

Commissioner Plank asked if this $92,000.00 was budgeted.

Ms. Sova said there were budgeted funds and carry forward funds to cover it.

**Motion carried unanimously.**

D. Request approval of First Amendment to Traffic Signal Maintenance Agreement with Seminole County (Bruce Paster, Public Works Director)

Mr. Paster said this is a request to go back to having Seminole County maintain the six signals: five on Rinehart and one on 17-92. Approximately seven years ago we went away from the County. At that time the County was charging approximately $40,000.00 a year and we got someone to maintain the signals for about $20,000.00 a year. It worked great the first five years. Two years ago the County re-looked at all of their costs and dropped their cost significantly. The last two years our private contractor costs have increased. It is now more beneficial and economical to go back to the County to have this done. If we come on board they are willing to do some traffic counts and a traffic study free on Rinehart Road to help re-time some of those signals. We are recommending going back to Seminole County for maintenance of the signals. We have an agreement with them for signals on Lake Mary Boulevard and would like to add the signals on Rinehart and 17-92 to the existing agreement.

Commissioner Duryea said Section 1 says the City shall pay 100% of annual costs above normal routine maintenance. He said that was open-ended.

Mr. Paster said they have given us what the costs are. The way the County does it is they take their overall costs and divide it by all the signals in Seminole County. They maintain every other signal in Seminole County except for these six. All the other cities in the County are all maintained by Seminole County government. In that way they are able to keep their costs low. At times our costs will be low while subsidizing others and other times they are subsidizing us. It is a flat rate fee. What we have been doing the last seven years is not a flat rate fee but the actual costs and now the actual costs are greater.

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Commissioner Brender said his only concern is service. He liked the fact they are willing to do a traffic count on Rinehart and with the announcement about Florida Hospital we are going to need to recount and relook at traffic. At the same time if something does go wrong he asked Mr. Paster if he felt the County could give us the response time that we need. When a hurricane hits would they fix every light in the County before they finally get to the cities.

Mr. Paster said he understood those concerns but believed they would be responsive to us. Regarding hurricanes we also take care of our own in that we have our own generators and will be able to mobilize for that. In all the discussions he has had with the County it seems like they are just as responsive as the response we have been getting. Hopefully we will obtain a higher level because they will be able to tie those lights back into their fiber optic system on Rinehart Road.

**Motion was made by Commissioner Brender to authorize the Mayor to execute the First Amendment to Traffic Signal Maintenance Agreement with Seminole County, seconded by Commissioner Plank and motion carried unanimously.**

X. Other Items for Commission Action

There were no items to discuss at this time.

XI. Reports:

A. City Manager

1. Annual appointments/reappointments to advisory boards

Ms. Sova said this is the annual appointments or reappointments to advisory boards. She has staff looking at combining some of these boards. The Board of Adjustment and the Local Planning Agency meet so seldom and thought it might behoove us to see if we can make a change to these boards and consolidate them into P&Z. That would take some time to finish the research and make the code amendments.

Commissioner Duryea said that was discussed some time ago and believed the rationale was the Board of Adjustment was a legislative function and the P&Z is advisory.

Ms. Sova said she thought it was the other way around with P&Z. She said John (Omana) has already begun the research.

Mr. Omana said part of discussion on the issue of quasi-judicial versus legislative is at that time we were also considering the issues coming out of Senate Bill 360 that had to be thrown into the equation and if we combined the two would that create problems as a result of what was coming at us with respect to Senate Bill 360. It was a different

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animal back then. We are looking at it in more detail and will come back with recommendations.

Mayor Mealor asked if the Commission had any objection removing Board of Adjustment and LPA at this time for consideration to see which direction we want to go. He asked if the Commission had any objection to bringing those back with a recommendation to combine and if we choose not to then we can make an appointment at that time. There were no objections.

Ms. Sova said we don't have any meetings coming up for those boards.

Mayor Mealor asked if there were any objection to the Elder Affairs three-year terms remaining as listed. There were no objections.

**James Gudinas and Marcie Kilbourne are reappointed to the Elder Affairs Commission.**

Mayor Mealor asked if there was any objection to Kathleen Harris being reappointed to the Historical Commission. There were no objections.

**Kathleen Harris is reappointed to the Historical Commission.**

Mayor Mealor asked if there were any objections to the continuation of Mr. Bel and Ms. Gudinas on the Firefighters Pension Board. There were no objections.

**Martin Bel and Karen Gudinas are reappointed to the Firefighters Pension Board.**

Mayor Mealor said the alternate for Planning & Zoning is Mr. Fitzgerald. Member Cartmill will no longer be able to serve. It has been the pleasure of the Board to take the alternate and move them to a permanent position.

**Motion was made by Commissioner Brender to appoint Sean Fitzgerald as a regular member of the Planning & Zoning Board, seconded by Commissioner Duryea and motion carried unanimously.**

Mayor Mealor asked the pleasure of the Board in relation to appointing an alternate to the Planning & Zoning Board.

**Deputy Mayor Lucarelli nominated Justin York as alternate member of the Planning & Zoning Board and nomination carried unanimously.**

**Sid Miller is reappointed to the Planning & Zoning Board.**

Mayor Mealor said on the Parks & Recreation Board, Member Miller will no longer be able to serve so we have an appointment for a two-year term.

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**Commissioner Brender nominated Chris Lee to the Parks & Recreation Advisory Board and nomination carried unanimously.**

**Robert Sebald, Robert Boardman, and Dan Williamson are reappointed to the Parks & Recreation Advisory Board.**

Ms. Sova announced all non-emergency offices will be closed Tuesday, December 24th and Wednesday, December 25th in observance of Christmas and also on Tuesday, December 31st and Wednesday, January 1st in observance of New Year's. Waste Management will not collect solid waste, recycling or yard waste on Christmas or New Year's but will provide a make-up day on the Saturday preceding each holiday to collect solid waste and recycling only. Discarded holiday trees can be placed curbside with your regular yard waste each Wednesday during the month of January, excluding New Year's Day.

Ms. Sova announced there will be no WineART Wednesday on January 1st.

Ms. Sova reminded everyone we previously canceled the scheduled meeting for January 2nd.

Ms. Sova wished everyone Happy Holidays.

B. Mayor

1. Appointment to MetroPlan Orlando's Municipal Advisory Committee

Mayor Mealor said in the past we appointed Deputy Mayor Lucarelli to serve on the MetroPlan Orlando's Municipal Advisory Committee. Unfortunately Ms. Lucarelli will no longer be able to serve in that capacity. He said he would like to appoint Commissioner Allan Plank to serve on MetroPlan Orlando's Municipal Advisory Committee. There were no objections from the Board.

**Commissioner Plank is appointed to MetroPlan Orlando's Municipal Advisory Committee.**

C. Commissioners

Commissioner Brender said CALNO was coming up January 8th at the City of Altamonte Springs. She asked Alternate Lucarelli if she could attend that meeting because he would be out of town.

Deputy Mayor Lucarelli answered affirmatively.

Commissioner Brender wished everyone a wonderful holiday and a fantastic new year and looked forward to serving.

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Commissioner Duryea said he would like to again express his appreciation to Parks & Recreation. There are great people working. The place looks great and is really uplifting.

Commissioner Plank said he would like to add his compliments on the job Mr. Nipe's department has done. Everybody he talks to in other cities or people that he runs into comment about this display. He said he came in tonight and couldn't find a parking space. He asked Jackie (Sova) if there was anything else going on Downtown and she said it has been like this every night this week. It is people walking around to do the lights. That is the greatest tribute you could have to the display.

Commissioner Plank wished everyone a Merry Christmas and a Happy New Year. Hopefully next year will be better than this year was.

Deputy Mayor Lucarelli wished everyone Merry Christmas and Happy New Year.

Mayor Mealor thanked the citizens who took the time to communicate with us by e-mail, telephone and in person. Your compliments about the work and the way that City Hall is presented and just the sheer joy in the evening of children enjoying themselves, families together taking photos. It's the Commission's gift back.

D. City Attorney

Ms. Reichmann had no report at this time but distributed an article on the Sunshine Litigation Industry for the Commission to read (copy attached).

Mayor Mealor recognized representatives from the Forest. It is always a joy to have them here and thanked them for their involvement.

XII. Adjournment

There being no further business, the meeting adjourned at 8:25 P.M.

_____ _____

David J. Mealor, Mayor Mary Campbell, Deputy City Clerk

ATTEST:

_____

Carol A. Foster, City Clerk

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# Lake Mary, Florida
## Office of the Mayor
## Proclamation

**Whereas,** *Girl Scouts has emerged as the preeminent organization for developing critical leadership skills in girls; and*

**Whereas,** *Girl Scouts is the leading authority on girls' healthy development and develop girls of courage, confidence, and character who make the world a better place; and*

**Whereas,** *the Girl Scout Cookie Program is the largest girl-led business in the world; and*

**Whereas,** *girls throughout the country sell over 200 million cookie packages a year to more than 50 million cookie customers and, in the process, build a lifetime of skills and confidence; and*

**Whereas,** *the Girl Scout Cookie Program builds five essential business skills, including goal setting, decision making, money management, communication skills, and business ethics—aspects essential to leadership, success, and life; and*

**Whereas,** *throughout its 100-year history, Girl Scouts have utilized these skills to focus their minds and energies to overcoming challenges and making appositive impact in their communities; and*

**Whereas,** *Girl Scouts traditionally evolve into strong, confident women who are transformational leaders in government, business, nonprofits, and the community.*

**NOW, THEREFORE,** *through the authority vested in me as Mayor of the City of Lake Mary, Florida, I, David J. Mealor, do hereby proclaim Friday, February 7, 2014, and Saturday, February 8, 2014, as:*

***"NATIONAL GIRL SCOUT COOKIE WEEKEND"***

in the City of Lake Mary.

*Duly proclaimed this 6th day of February, A.D., 2014.*

*CITY OF LAKE MARY, FLORIDA*

*By:* _____
*DAVID J. MEALOR, MAYOR*

# *MEMORANDUM*

DATE: February 6, 2014

TO: City Commission

VIA: Jackie Sova, City Manager

FROM: Stephen Noto

SUBJECT: Final Subdivision Plan with variance(s) for Pine Tree Terrace, a nine-lot single-family residential subdivision located at 385 Pine Tree Road, M.I. Homes of Orlando, LLC/Brian Dalrymple, applicant (Public Hearing) (Stephen Noto, Senior Planner)

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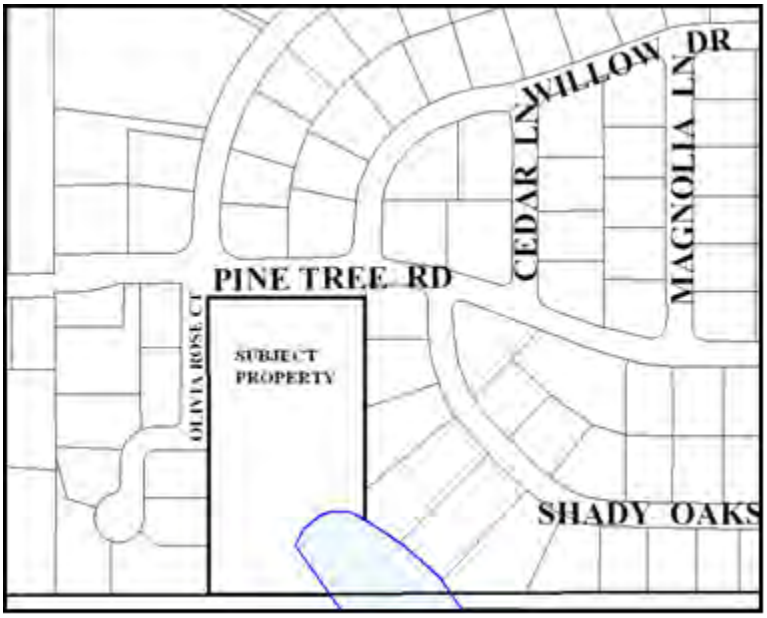
**REFERENCE:** Development Review Committee, City Comprehensive Plan, Code of Ordinances.

**REQUEST:** The applicant is requesting final subdivision approval, with a variance, for a 9-lot single family residential subdivision.




## DISCUSSION:

**Location:** The subject property is located east of South Country Club Road, at the southeast corner of Pine Tree Road and Olivia Rose Court.

**History:** The subject property is approximately 5.17 acres and is located at the southeast corner of Pine Tree Road and Olivia Rose Court. The Cardinal Oaks Cove and Whippoorwill Glen subdivisions are adjacent to the subject property.

There is currently one single family home on the subject property that was built in 1971. It will be demolished as part of the subdivision development.

The City Commission approved the Preliminary Subdivision Plan, with conditions, on December 5, 2013.

## ANALYSIS:

**Zoning:**

| | | |
|---|---|---|
| NW<br>R-1AA | N<br>R-1AA | NE<br>R-1AA |
| W<br>R-1AA | **SITE**<br>R-1AA | E<br>R-1AA |
| SW<br>Sem. St. | S<br>Sem. St. | SE<br>Sem. St. |

**Future Land Use:**

| | | |
|---|---|---|
| NW<br>LDR | N<br>LDR | NE<br>LDR |
| W<br>LDR | **SITE**<br>LDR | E<br>LDR |
| SW<br>Sem. St. | S<br>Sem. St. | SE<br>Sem. St. |

**FINAL SUBDIVISION PLAN:** The zoning of the subject property is R-1AA, therefore, lot sizes will exceed 14,000 sq. ft. The largest lot will be Lot 1 at 15,600 sq. ft., and the smallest lot will be Lot 9, at 14,003 sq. ft. The setbacks for each parcel will conform to the R-1AA zoning district requirements: 25’ front yard setback, 30’ rear yard setback, 20’ combined side yard setback with a minimum of 8’ in one side yard. The eastern side yards of Lots 3, 6, and 7 will have a 12’ setback.

The future land use designation of the subject property is LDR, Low Density Residential. LDR allows for up to 2.5 units per acre. At 5.17 acres, the subject property could have up to 13 lots. However, as previously mentioned, the project will consist of 9 lots.

**Access and Transportation:** The driveways of Lots 1-3 will be on Pine Tree Road. The remaining lots will have access from the cul-de-sac. The cul-de-sac will be dedicated to the City, as a 50’ right-of-way (ROW). A transportation study was not required as the project will not generate more than 50 peak hour or 300 average daily trips.

**Arbor Board:** On December 16, 2013, the Arbor Board approved the removal of five (5) historic trees as part of the infrastructure work required for the development of the subdivision. The applicant will be providing $5,000 as part of the removal of those trees.

**Environmental**: The applicant submitted an environmental study from Bio-Tech Consulting Inc. Staff, and the City’s environmental consultant, reviewed the study and found there to be no issues on site. There is a wetland area on the southeast corner of the site. The applicant will be providing a 25’ landward buffer around that area, which is in compliance with Chapter 155, Section C.

**Provisions for Adjacent Properties:** During the Preliminary Subdivision process, the applicant began coordinating with the neighboring property owners regarding buffering between the new subdivision and their existing lots.

As a result, the applicant is providing several improvements to meet the needs of the existing homeowners. Generally, the applicant will be providing fencing and grading improvements to 8 neighboring lots. Details on the improvements are called out on Sheet ST-1.

**Seminole County Public Schools** – A School Capacity Availability Letter of Determination (SCALD) has been issued with no conflicts.

**Stormwater Management and Utilities:** A wet stormwater pond is proposed to be constructed on the southwest corner of the property adjacent to Lots 8 and 9. Portions of Lots 1-3 will drain into existing facilities to the north, the remaining lots, and roadway, will drain into the pond.

There is an existing 8" water main on Olivia Rose Court and Pine Tree Road. Reclaimed water is currently unavailable in the area; however a reclaimed line will be installed within the cul-de-sac in the event service becomes available in the future. Sewer service is unavailable in the area; therefore each lot will have a septic system. Permitting will be coordinated with the Seminole County Health Department.

**VARIANCE:** The applicant has applied for one variance to the following section of the Code described below:

1. Chapter 154.20, A variance of 5' to allow the placement of a 30" tall retaining wall within 0' feet of a property line. The retaining wall is proposed to be built to save multiple trees and provide additional buffering for the neighbors to the east. It will be located on Lots 6 and 7, at the terminus of the cul-de-sac, 20' from the eastern property line. It will be approximately 60' in length.

## Variance Criteria (Section 154.06):

In making a determination regarding the requested variance, the Planning and Zoning Board shall determine that all the following criteria have been met:

| **CRITERIA No. 1:** | |
|---|---|
| *That a special condition and circumstance exists which is peculiar to the land, structures, or subdivision improvements involved, and which are not applicable to other lands, structures, or required improvements; and* | |
| **FINDINGS OF FACT No. 1:** | |
| Criteria met? | Due to the differing elevations of the site, a significant amount of grading is needed to properly develop the infrastructure. This issue, combined with the elevations of neighboring properties, creates a unique situation that requires a retaining wall and other improvements to provide an appropriate amount of buffering. |
| 1. Yes | |

| **CRITERIA No. 2:** | |
|---|---|
| *That the special conditions and circumstances do not result from the actions of the applicant; and* | |
| **FINDINGS OF FACT No. 2:** | |
| Criteria met? | The retaining wall is needed to provide buffering for a neighboring property, and to save multiple trees. The required elevations of the site do not result from actions of the applicant, as elevation work has been done in the past on neighboring developments that have affected the subject property. |
| 1. Yes | |

| **CRITERIA No. 3:** | |
|---|---|
| *That granting the variance requested would not confer on the applicant any special privilege that is denied by the provisions of this section to other lands, structures, or required improvements under similar conditions. No pre-existing conditions on neighboring lands which are contrary to the provisions of the section shall be considered grounds for the issuance of variances; and* | |
| **FINDINGS OF FACT No. 3:** | |
| Criteria met? | Granting the variance requested would not confer on the applicant a special privilege that is denied by the provisions of this section to other lands, structures, or required improvements under similar conditions. The retaining wall that is requested will help save multiple trees, as well as provide an area for an 8' tall PVC fence. This will help with neighborhood buffering and public safety. |
| 1. Yes | |

| **CRITERIA No. 4:** | |
|---|---|
| *That literal interpretation of the provisions of the section would deprive the applicant of rights commonly enjoyed by other properties with similar conditions; and* | |
| **FINDINGS OF FACT No. 4:** | |
| Criteria met? | Literal interpretation of the provision of the section would deprive the applicant of the ability to provide buffering for multiple lots within, and outside of, the subdivision. |
| 1. Yes | |

| **CRITERIA No. 5:** | |
|---|---|
| *That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or other improvements; and* | |
| **FINDINGS OF FACT No. 5:** | |
| Criteria met? | This is the minimum variance to make possible the reasonable use of the land, building, or other improvements. Staff has identified the retaining wall as a key component of the subdivision. |
| 1. Yes | |

| CRITERIA No. 6: | |
|---|---|
| *That the grant of the variance will be in harmony with the general intent and purpose of the ordinance, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.* | |
| **FINDINGS OF FACT No. 6:** | |
| Criteria met? | The lack of a retaining wall in this location would be injurious to the neighborhood and detrimental to the public welfare. It is being built to save trees and provide additional buffering. Therefore, the granting of the variance is in harmony with the general intent and purpose of the ordinance, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. |
| 1. Yes | |

**FINDINGS OF FACT No. 7:** Staff finds that the applicant has met all of the criteria as stated above to grant the requested variance.

## LEGAL DESCRIPTION:

PARCEL 1

The East 330 feet of the Southeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 15, Township 20 South, Range 30 East, Seminole County, Florida.

AND PARCEL 2

The East 10 feet of the following described property:

The West 330.5 feet of the East 660.5 feet of the South 1/2 of the Southeast 1/4 of the Northwest 1/4, Section 15, Township 20 South, Range 30 East, Seminole County, Florida, LESS road right of way for Pine Tree Road.

Containing 225,121 square feet, or 5.17 acres, more or less.

**FINDINGS OF FACT:** Staff finds that the request for Final Subdivision is consistent with the relevant criteria of the City's Final Subdivision regulations, the City's Code of Ordinances and Comprehensive Plan and recommends approval with the following conditions:

1. The site construction permit shall show irrigation details for the lines around the stormwater pond.
2. Per the Arbor Board approval, the applicant shall provide $5,000.00 at the time the site construction permit is issued for the removal of the five (5) historic trees.
3. The driveways of Lots 1 and 3 shall be located as such to avoid movement conflicts with Shady Oaks Circle (Lot 1) and Willow Drive (Lot 3).
4. The home sizes shall comply with the Developer's Agreement from 1997 (minimum 1,800 square feet).

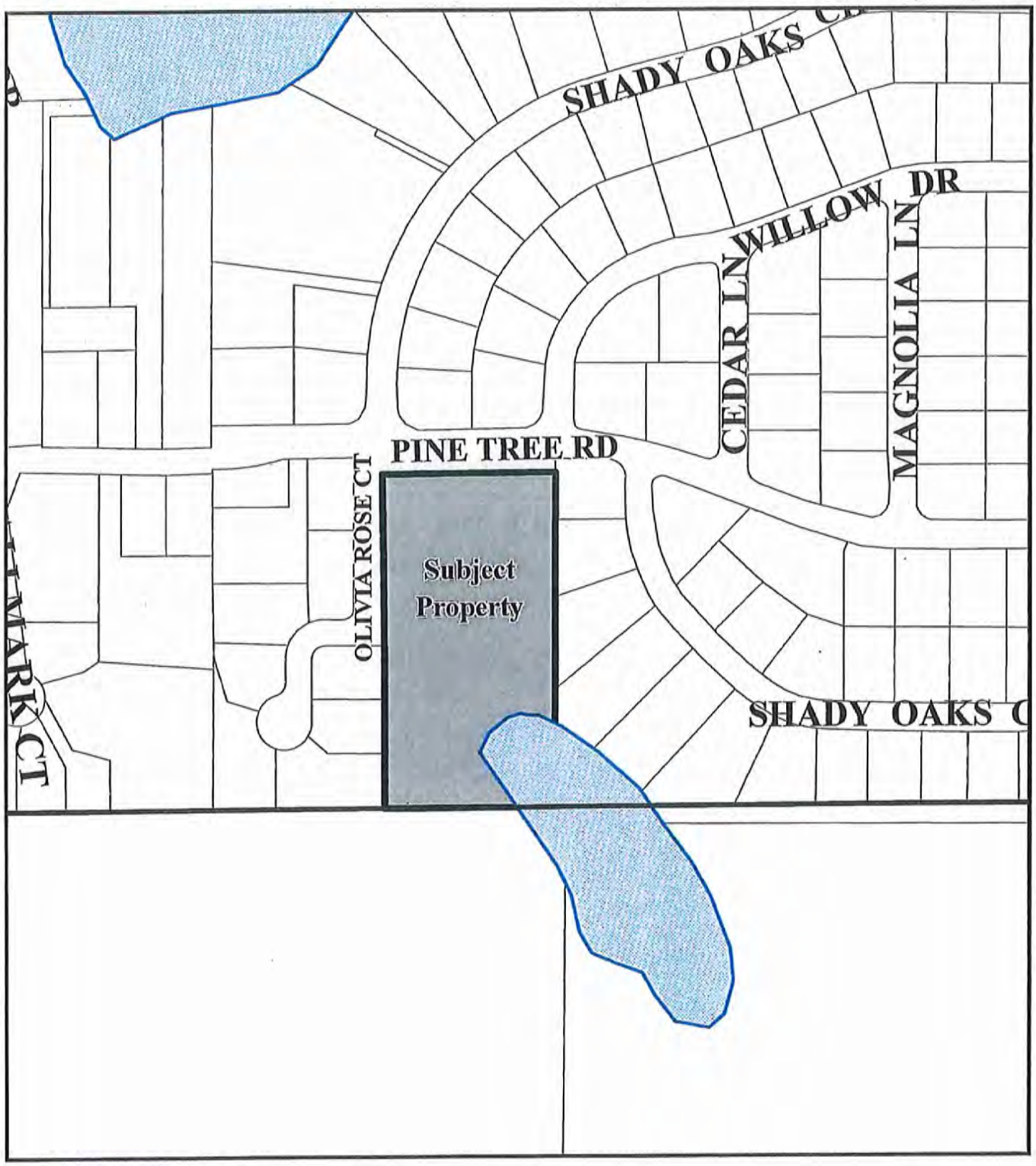
5. A connection to reuse service shall be made when service becomes available. *(Note: This condition was added after the Planning and Zoning Board Meeting)*

**PLANNING AND ZONING BOARD:** At their regular January 14, 2014 meeting the P&Z voted unanimously, 5-0, to recommend approval of the requested Final Subdivision Plan, with Variance, with Staff's conditions, 1-4, and the following condition:

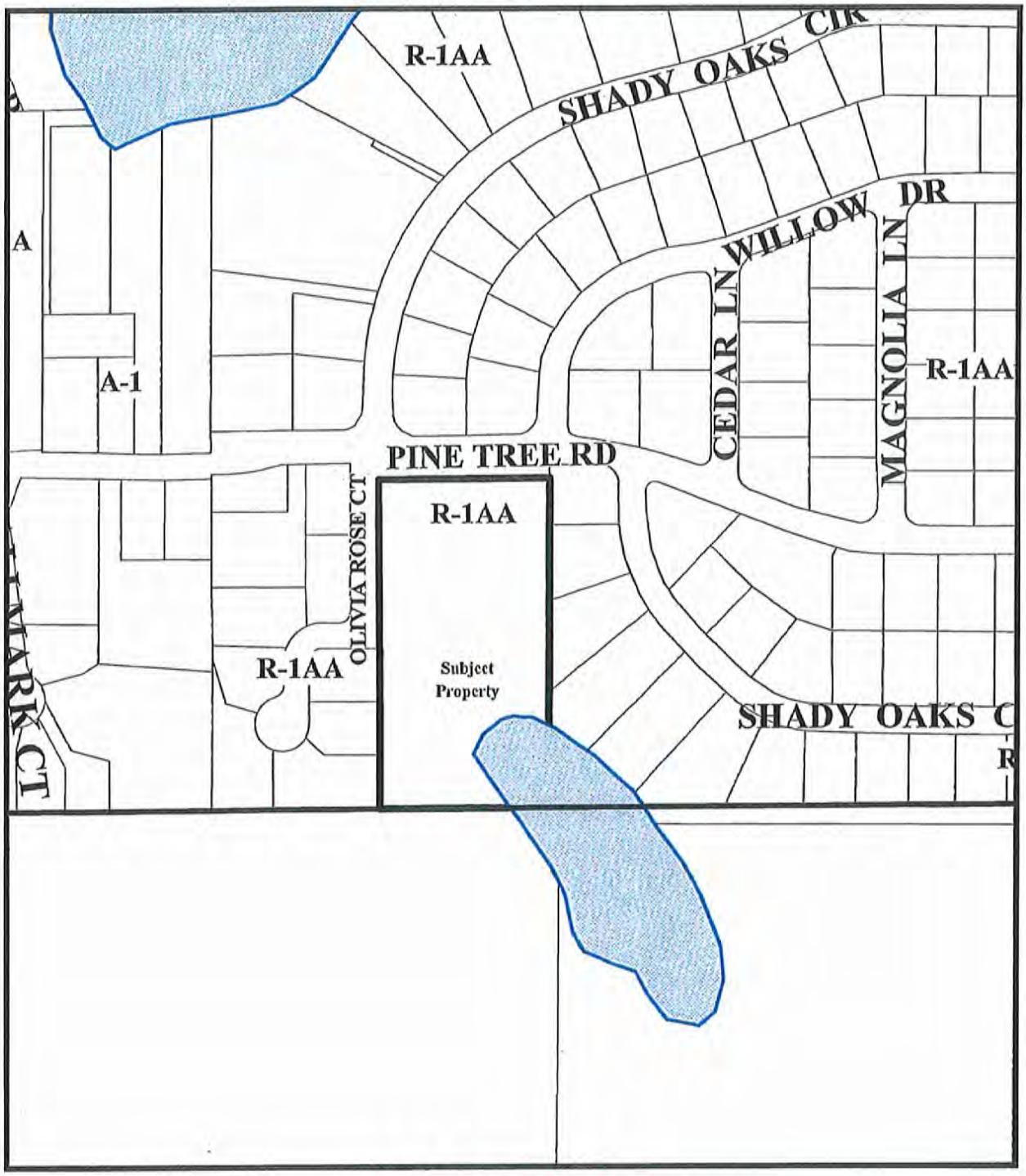
1. Provisions for Adjacent Properties, A-H, listed on page ST-1 of this Final Subdivision Plan be included in these conditions.

## ATTACHMENTS:

- Location Map
- Zoning Map
- Future Land Use Map
- Aerial Map
- 8.5" x 11" Sheet ST-1
- Pine Tree Terrace Final Subdivision Plan
- January 14, 2014 Planning and Zoning Board Meeting Minutes




# Location Map
# Pine Tree Terrace




# Zoning Map

**LEGEND**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| A-1 | Agriculture | R-1AAA | Single Family | PUD | Planned Unit Development | M-1A | Light Industrial |
| RCE | Rural Country Estate | R-M | Residential | PO | Professional Office | M-2A | Industrial |
| R-1A | Single Family | R-2 | One & Two Family | C-1 | General Commercial | DC | Downtown Center |
| R-1AA | Single Family | R-3 | Multiple Family | C-2 | Commercial | GU | Government Use |
| | | | | | | SC PUD | Sem. Cnty PUD |

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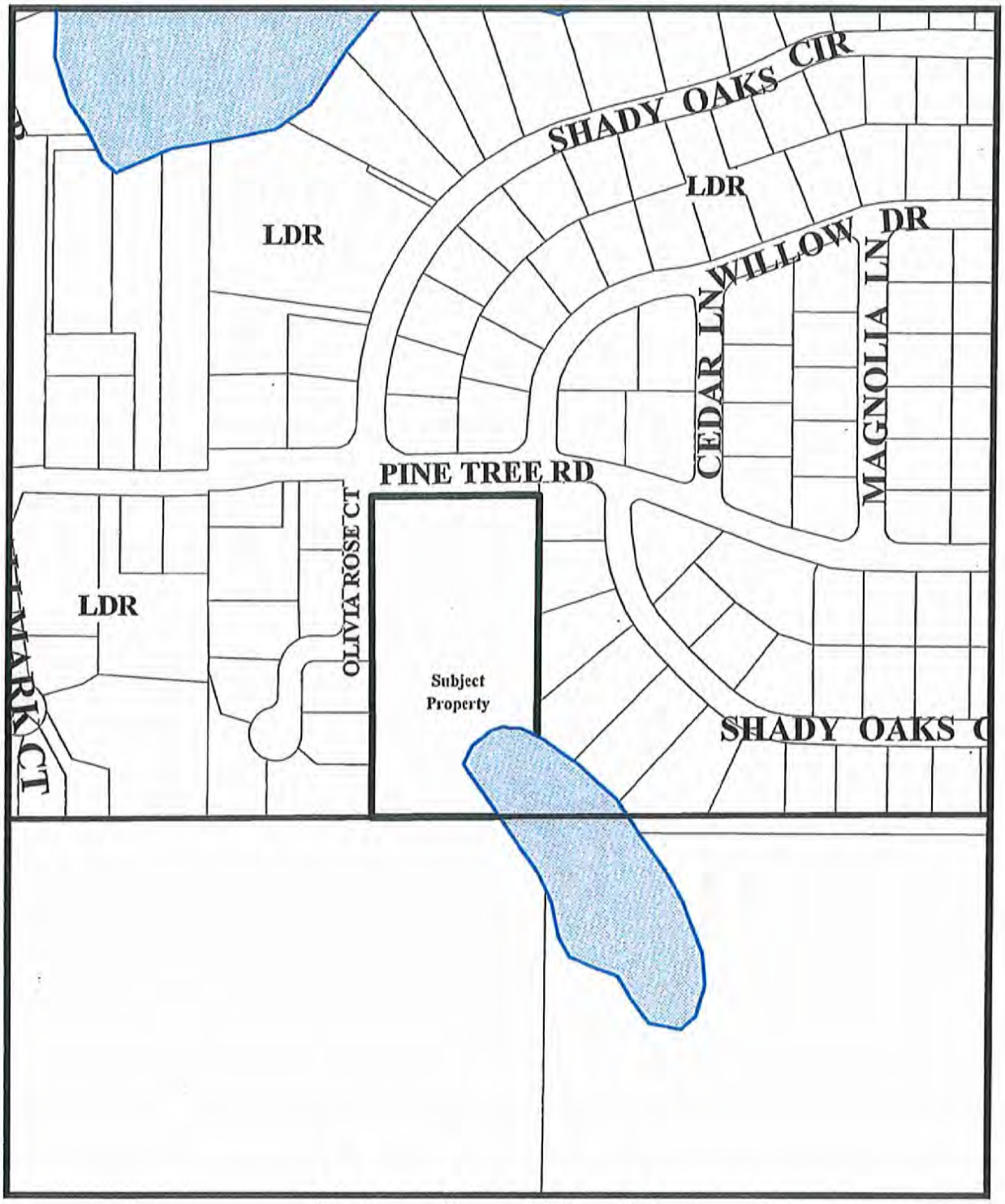


# Future Land Use Map

| | | | | | |
|---|---|---|---|---|---|
| RR | Rural Residential | OFF | Office | PUB | Public / Semi-Public Lands |
| LDR | Low Density Residential (Max 2.5 DU / Acre) | RCOM | Restricted Commercial | DDD | Downtown Development District |
| LMDR | Low / Medium Density Residential (Max 4 DU / Acre) | COM | Commercial | REC | Recreation |
| MDR | Medium Density Residential (Max 6 DU / Acre) | IND | Industrial | SC PD | Seminole County PD |
| HDR | High Density Residential (Max 9 DU / Acre) | HIPTI | High Intensity Planned Development | | |

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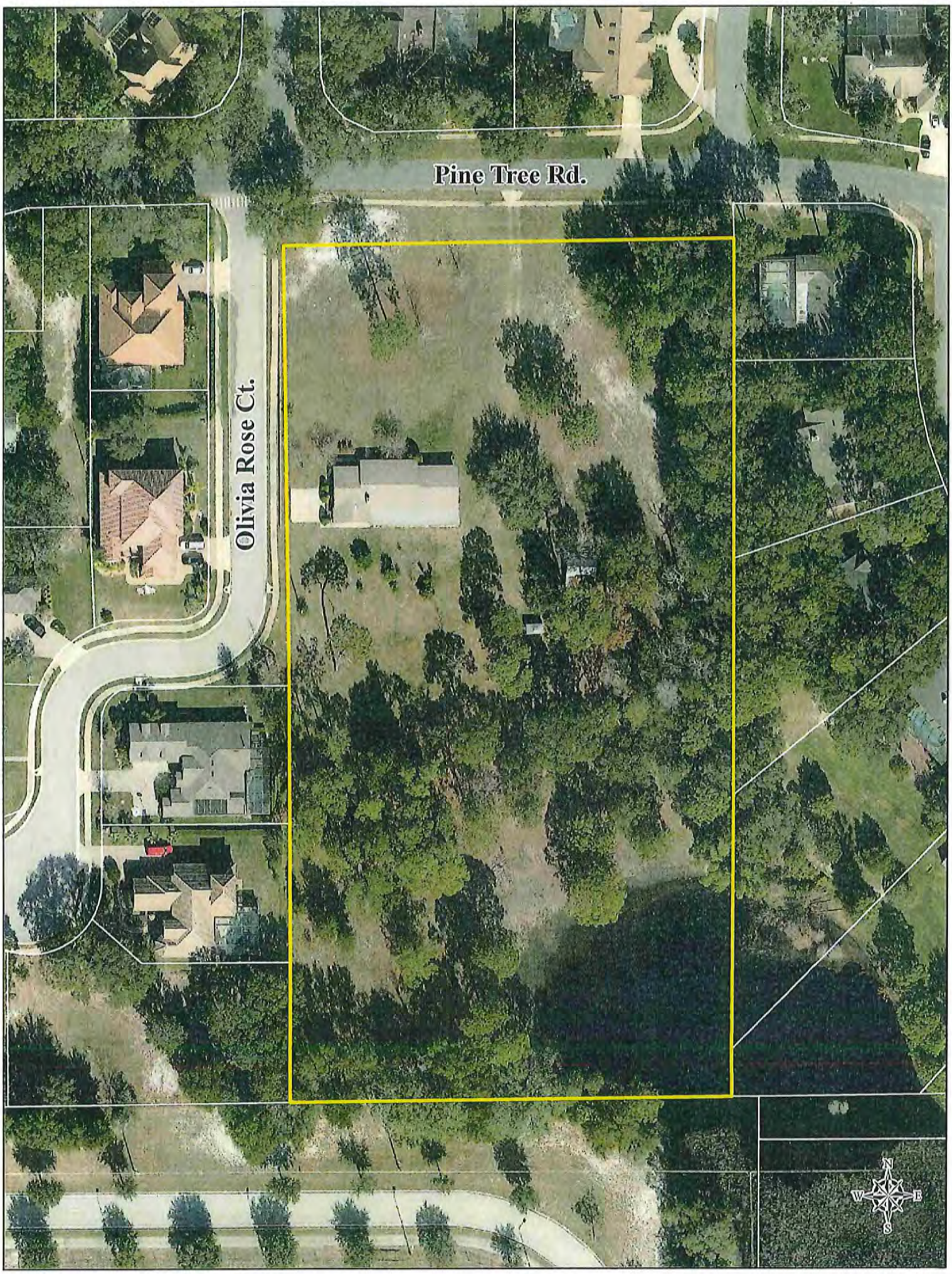
Pine Tree Rd.
Olivia Rose Ct.
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## SOILS LEGEND:

| SYMBOL | NAME | HYDROLOGIC GROUP |
|---|---|---|
| 6 | ASTATULA APOPKA | A |
| 10 | DASHER SAND | B/D |
| 16 | NARCOOSEE SAND | B/D |
| | SOIL DIVISION LINE | |

LEGAL DESCRIPTION:

PARCEL 1

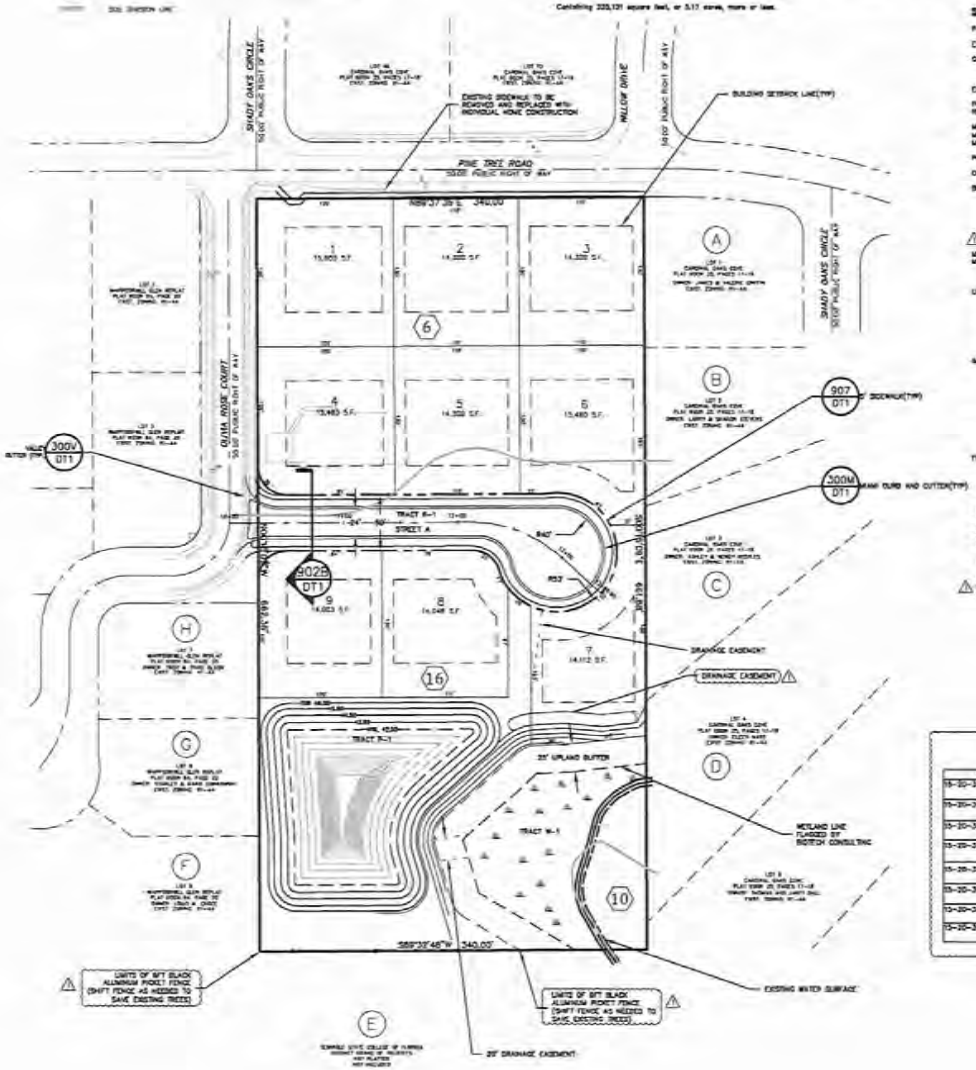
The East 330 feet of the Southeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 15, Township 20 South, Range 30 East, Seminole County, Florida.

AND PARCEL 2

The East 10 feet of the following described property:

The West 330.5 feet of the East 660.5 feet of the South 1/2 of the Southeast 1/4 of the Northwest 1/4, Section 15, Township 20 South, Range 30 East, Seminole County, Florida, LESS road right of way for Pine Tree Road.

Containing 223,131 square feet, or 5.17 acres, more or less.




### TRACT TABLE:

| TRACT | USEAGE | OWNERSHIP | ACREAGE | PERCENTAGE |
|---|---|---|---|---|
| R-1 | RIGHT-OF-WAY | CITY OF LAKE MARY | 0.46 AC | 8.90% |
| P-1 | STORMWATER/OPEN SPACE | H.O.A. | 1.02 AC | 19.73% |
| W-1 | WETLAND/CONSERVATION | H.O.A. | 0.68 AC | 13.17% |
| | SINGLE FAMILY LOTS | | 3.03 AC | 58.60% |
| | TOTAL SITE AREA | | 5.17 AC | 100.00% |

### SITE DATA:

| | |
|---|---|
| PARCEL ID NUMBERS: | 15-20-30-300-0304-0000 |
| EXISTING ZONING: | R1-AA |
| GROSS AREA: | 5.17 AC |
| AREA ABOVE WETLAND: | 4.84 AC |
| AREA BELOW WETLAND: | 0.33 AC |
| EXISTING LAND USE DESIGNATION: | LDR-DENSITY RESIDENTIAL |
| PROPOSED LAND USE: | LDR-DENSITY RESIDENTIAL |
| RESIDENTIAL DENSITY: | 2.5 DU-AC MAXIMUM |
| MAXIMUM NUMBER OF LOTS: | 9 |
| MINIMUM LOT WIDTH: | 80' |
| MINIMUM LOT AREA: | 14,000 S.F. |
| PHASING: | ONE PHASE |
| OPEN SPACE: | OPEN SPACE SHALL BE PRIVATE AND PROVIDED ON ALL LOTS. |
| BUILDING SETBACKS: | |
| FRONT: | 25' (MINIMUM) |
| SIDEW: | 20' COMBINED (MINIMUM 8' EACH SIDE) |
| STREET SIDE: | 25' |
| REAR: | 30' |
| ⚠ (NOTE: LOTS 3, 6, AND 7 SHALL PROVIDE A 10' SIDE SETBACK ON THE EASTERN SIDE.) | |
| MAXIMUM BUILDING HEIGHT: | 35' |
| MINIMUM LIVING AREA: | 1,800 SF - EXCLUDES CARPORTS, GARAGES, PORTE-COCHERES, BREEZEWAYS, AND SCREENED OR OPEN PORCHES |
| UTILITY SERVICE PROVIDERS: | |
| WATER: | CITY OF LAKE MARY |
| RECLAIMED WATER SERVICE: | FUTURE, CITY OF LAKE MARY |
| SANITARY SEWER SERVICE: | SEPTIC/PERMITTED BY SEMINOLE COUNTY HEALTH DEPARTMENT |
| ELECTRIC: | DUKE ENERGY |
| TELEPHONE: | FELLSOUTH |
| CABLE TELEVISION: | BIGHOUSE NETWORKS |
| SOLID WASTE: | CITY OF LAKE MARY |
| IMPACT ANALYSIS: | |
| SCHOOLS: | |
| ELEMENTARY SCHOOL: | 0.246 PERSONS/UNIT x 9 UNITS = 2.24 PERSONS |
| MIDDLE SCHOOL: | 0.1148 PERSONS/UNIT x 9 UNITS = 1.03 PERSONS |
| HIGH SCHOOL: | 0.124 PERSONS/UNIT x 9 UNITS = 1.12 PERSONS |
| ROADS: | 9.55 TRIPS/UNIT/DAY x 9 UNITS = 85.95 AVG. DAILY TRIPS |
| WATER: | 250 GPD/UNIT x 9 UNITS = 2,250 GPD |
| SOLID WASTE: | 4 LBS/PERSON/DAY x 2.57 PERSONS/UNIT x 9 UNITS = 92.52 LBS/DAY |
| FIRE PROTECTION: | FIRE PROTECTION WILL BE PROVIDED BY CITY OF LAKE MARY. FIRE FLOW WILL BE A MINIMUM OF 1,000 G.P.M. PER APPENDIX C OF ORDINANCES. |

### GENERAL NOTES:

1) ALL DELINEATED MEASURES FOR EROSION CONTROL ARE THE MINIMUM REQUIRED WITH ADDITIONAL CONTROLS TO BE UTILIZED AS NEEDED.
2) PRIOR TO CONSTRUCTION, DEMOLISH AND REMOVE ALL EXISTING STRUCTURES AND FOUNDATIONS, AND PROPERLY ABANDON ALL EXISTING WELLS.
3) APPROVED ADDRESS NUMBERS SHALL BE POSTED ON THE BUILDING, CLEARLY VISIBLE FROM THE RIGHT-OF-WAY WITHOUT OBSTRUCTION. THE NUMBERS SHALL BE A MINIMUM OF 3" IN HEIGHT, AND OF A CONTRASTING COLOR WITH THE IMMEDIATE BACKGROUND, AND CONSTRUCTED OF DURABLE WEATHER-RESISTANT MATERIAL.
4) PRIOR TO CONSTRUCTION, THE PROPERTY SHALL BE POSTED AS A DESIGNATED CONSTRUCTION SITE. THE SIGNAGE SHALL READ: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."
5) ALL SIGNAGE SHALL COMPLY WITH THE REQUIRED PROVISIONS OF SECTION 105, APPENDIX I, SDMC.
⚠ (6) COMMON AREAS OTHER THAN STORMWATER POND WILL BE SODDED WITH DROUGHT-TOLERANT GROUND COVER, AND IRRIGATION IS NOT NEEDED IN THESE AREAS. STORMWATER POND SIDE SLOPES WILL BE SODDED AND IRRIGATED.

### ⚠ PROVISIONS FOR ADJACENT PROPERTIES

| PARCEL | SYMBOL | DIRECTION | ADDRESS | OWNER | PROVISION |
|---|---|---|---|---|---|
| 15-20-30-300-0000-0010 | A | EAST | 287 SHADY OAKS CIR | GRIFFIN JAMES W & VALERIE W | MAX. 6' WHITE/TAN PVC FENCE OR MAX. 6' BLACK ALUMINUM PICKET FENCE (NORTH LIMIT AT LOTS FRONT SETBACK) |
| 15-20-30-300-0000-0020 | B | EAST | 283 SHADY OAKS CIR | STEVENS LARRY D & SHARON Y | MAX. 6' WHITE/TAN PVC FENCE OR MAX. 6' BLACK ALUMINUM PICKET FENCE |
| 15-20-30-300-0000-0030 | C | EAST | 283 SHADY OAKS CIR | PEEPLES ASHLEY I & WENDY D | MAX. 6' WHITE/TAN PVC FENCE OR MAX. 6' BLACK ALUMINUM PICKET FENCE |
| 15-20-30-300-0000-0040 | D | EAST | 291 SHADY OAKS CIR | MAST EUGEN W | MAX. 6' WHITE/TAN PVC FENCE OR MAX. 6' BLACK ALUMINUM PICKET FENCE (SOUTH LIMIT AT UPLAND BUFFER LINE), EXISTING WETLAND BUFFER |
| 15-20-30-300-0400-0000 | E | SOUTH | 157 RD | SEMINOLE STATE COLLEGE OF FL DISTRICT BOARD OF TRUSTEES | MAX. 6' BLACK ALUMINUM PICKET FENCE (EAST LIMIT AT UPLAND BUFFER LINE), EXISTING WETLAND BUFFER |
| 15-20-30-300-0000-0050 | F | WEST | 271 OLIVIA ROSE CT | CROCE LOUIS M | PROPOSED STORMWATER POND AMENITY |
| 15-20-30-300-0000-0060 | G | WEST | 277 OLIVIA ROSE CT | DONKOWSKI STANLEY & MARIE A | MINOR GRADING TO PROVIDE GRADUAL TE-IN SLOPE, PROPOSED STORMWATER POND AMENITY |
| 15-20-30-300-0000-0070 | H | WEST | 283 OLIVIA ROSE CT | OLSON TROY L & TRACI A | MINOR GRADING TO PROVIDE GRADUAL TE-IN SLOPE, WROUGHT IRON FENCE |

GRAPHIC SCALE

( IN FEET )
1 inch = 50 ft.

NORTH

MADDEN CIVIL ENGINEERS
431 E. Horatio Avenue
Suite 260
Maitland, Florida 32751
(407) 629-8330

# SITE PLAN FOR PINE TREE TERRACE

LAKE MARY, FLORIDA

CLIENT: M.I. HOMES
100 INTERNATIONAL PARKWAY, STE 110
LAKE MARY, FL 32746
407-326-5033

ENGINEER IN CHARGE: CHARLES H. MADDEN, P.E. #61791
CERTIFICATE OF AUTHORIZATION No. 00-00-0711

| DATE | REVISIONS |
|---|---|
| 10/07/03 | PER CITY OF LAKE MARY COMMENTS |

JOB # 13027
DATE 10/11/13
SCALE 1"=50'
DESIGNED BY: CHM
DRAWN BY: CHM
APPROVED BY: CHM

ST-1

S:\Data\13027\dwg\13027-ST1.dwg Sep 23, 2013-10:05:20 am

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IV. New Business

A. 2013-FSP-08: Recommendation to the City Commission for a Final Subdivision Plan with variance for Pine Tree Terrace, a nine-lot single-family residential subdivision, 385 Pine Tree Road, Lake Mary, Florida; Applicant: M.I. Homes of Orlando, LLC/Brian Dalrymple, Vice President (Public Hearing)

Stephen Noto, Senior Planner, presented Item A. and the related Staff Report. A reduced copy of Sheet ST-1 of the Final Subdivision Plan attached to the Staff Report was on the overhead projector. He said, this item has been before you before as a Preliminary Subdivision Plan late last year. The City Commission approved the Preliminary Subdivision Plan back in December. The Final Subdivision Plan request is a bit unique in that there is a variance. We usually don't have final subdivisions come forward with variances. In fact, since I've been with the City, I don't think we've had any. But, the variance request that is part of this subdivision is very minor and it's doing a lot of good for the whole of the subdivision and the adjoining neighborhood.

Mr. Noto stated, just for the purposes of everyone that's here, the Pine Tree Terrace subdivision is a nine-lot subdivision on just over five acres of land. There is an existing home on the property that will be demolished as part of the project. Olivia Rose Court is on the left side of the image and Pine Tree Terrace is on the top. The nine lots will be a minimum of 14,000 square feet in size, which is consistent with the R-1AA Zoning District. The minimum home size will be 1,800 square feet to be consistent with a Developer's Agreement that was approved back in 1997.

Mr. Noto said, one of the items that came up during the Preliminary Subdivision Plan process was the removal of some historic trees. The removal of those trees was heard by the arbor board not too long ago. They approved the removal of those trees and the Applicant will be making a $5,000 donation to the City's Tree Bank. A thousand dollars per tree as part of that approval.

Mr. Noto stated, one of the larger things – you will see a table down at the bottom right-hand side of Sheet ST-1 (Gary Schindler, City Planner, puts a blown-up version of Sheet ST-1 on the overhead projector). This is a list of items that the Applicant will be providing to adjacent property owners; items that were agreed upon based upon meetings with the homeowners, based upon input from the Preliminary Subdivision Plan process late last year ranging from – generally, the concessions are fencing, but the big one is the retaining wall to save trees and to help construct the fence. That's with regard to letter C, which is the third item down on the list. Due to some grading issues, the Applicant is going to provide the retaining wall. And I will get a little bit further into that here in a few minutes.

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Mr. Noto said, you can see the properties that are to the west of the project by Olivia Rose Court there is going to be some grading improvements done as well as some hedges installed. So, we are really pleased with how the Applicant went out and met with the neighbors. This is certainly the most specific list we have seen of improvements that will be done by a developer within the recent past. Usually it's just throwing in landscaping and that's it, but this is quite a bit more specific.

Chairman Hawkins interjected asking, these are provisions that will be applied to this property and not the homeowners' property?

Mr. Noto answered, my understanding is that specifically the fencing would be on the adjoining properties. They would not be on each individual property in this subdivision. So, that being the purpose – and Brian can interrupt me if I'm incorrect here – is that if they want to change something or if they need to do some maintenance or replacement -- it's to relax confusion as the years go on. They know why they have the fence and they can do with it as they see fit as time passes.

Chairman Hawkins questioned, so, the developer is giving them the fence because it's on their property and then and forever it's their problem?

Mr. Noto responded, yes.

Mr. Noto requested Mr. Schindler put up Sheet 3 of the Final Subdivision Plan on the overhead projector.

Mr. Schindler complied.

Mr. Noto proceeded to discuss the variance. He stated, like I said, it's very rare to have a Final Subdivision Plan that has a variance tied in with it. I will note, at this point, because of that, typically, a Final Subdivision Plan stops at P&Z. You are the terminal board and they can move on to construction, but since there is a variance, the City Commission has to approve it. So, tonight's action will be a recommendation of approval or denial, however you see fit, to the City Commission in February.

Mr. Noto said, it's hard to see without the laser, but here's the cul-de-sac (indicating to overhead projector) and there's a little line right here which is the retaining wall. And why does a retaining wall need a variance? Well, there's a property line right about here (indicating to overhead projector) between Lots 6 and 7. The Code says if you have a retaining wall, it's got to be 5' from any

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properties. Well, this retaining wall runs on two properties, so, of course, it needs a variance.

Mr. Noto requested Mr. Schindler put up the cross-section detail, which I believe is Sheet 4, the last sheet (Mr. Schindler complied). You can see on this cross section what the retaining wall is going to do specifically, how it will help the buffering. So, here is the cul-de-sac (indicating to overhead projector) and this cross-section detail – you can see it's from this point to this point, and as you go down the cul-de-sac, the slope slightly goes down, and then, boom, here's the retaining wall, and then there would be the existing grade and here is the proposed fence. So, without that retaining – and there are some trees in here as well. That is the purpose of the wall, is to save the trees that are in this general area (indicating to overhead projector) and to provide buffering so that when folks are driving after sunset with their lights on, not only will their lights hit the retaining wall and hit the fence, they will hit the existing trees providing some buffer for the neighbor that is to the east.

Chairman Hawkins asked, how high is the retaining wall and how far is it from the curb?

Mr. Noto replied, it's 30" tall, and I can't see – Gary, can you see the dimension from the curb there?

Mr. Schindler answered, there is a proposed 4-foot sidewalk, so it's not much wider than 4'.

Mr. Noto further responded, so, I would say it would be between 6 and 10' given that…

Chairman Hawkins interposed saying, oh, okay. I was just getting at it's not close to the curb.

Mr. Noto stated, that's correct; right. So, without that wall, the grading in this area would be completely different. The trees would have to go down. So, we just can't say, yeah, that's great and approve the variance. We had to review it against the six criteria that's outlined in your Staff Report, pages 3, 4 and 5, in that there's a unique hardship that is not the result of the Applicant, among some other items. This is really to help the adjoining property owner. It's not something that we asked them to do. They did it on their own based upon the input and the discussions they had with that homeowner.

Mr. Noto said, there are a few conditions with this request, four specifically; the first being that they show irrigation details on the site construction permit. The

second one has to do with when the $5,000 is given to the City that was tied in with the arbor board approval. The location of the driveways on Lots 1 through 3 – Gary, can you put Sheet 1 back up real quick.

Mr. Schindler complied.

Mr. Noto stated, and then number 4 having to do with the home sizes being in compliance with the Developer's Agreement from 1997. I will add that Lots 1, 2, 3 shown by the laser here (indicating to overhead projector) – I will add that one other provision agreed upon by the developer is that the eastern setback on Lots 3, 6 and 7 is going to be 12'. I'm pointing that out because through straight zoning under R-1AA, your side setbacks are a combined 20' with a minimum of 8' in one side yard. So, they could have done an 8-foot setback here, here and here, or 9, 10 or 11, but they decided to go with 12', which those are your typical combinations; 8, 12, 9, 11, 10, 10. They decided to go with 12', again, to provide some spacing between those proposed lots and the existing lots to the east.

Mr. Noto concluded his presentation by saying, all that being said, staff is recommending approval of the Final Subdivision Plan with variance with the four conditions outlined in the Staff Report. As I mentioned, this will go to City Commission on February 6th, which is the first meeting of the month. From there, they would have the opportunity to have their preconstruction meeting and begin turning dirt. The Applicant is here this evening if you have any additional questions. Otherwise, I am available for questions.

Chairman Hawkins questioned, on Lots 1, 2 and 3 when you said the driveways aren't going to – shouldn't line up with these two streets (indicating to overhead projector), that just means that the driveway for Lot 1 can't be here and the driveway for Lot 3 can't be here? Is that what you mean?

Mr. Noto replied, correct; yes.

Chairman Hawkins asked, and as part of your Findings of Fact and conditions 1 through 4, should we include the A-H, Provisions for Adjacent Properties, or is that just noted as a part of plans?

Mr. Noto answered, sure. It's noted as a part of the plan, but if you would like to add clarification by making them specific conditions, that's fine also.

Chairman Hawkins requested the Applicant come forward and address the Board.

Brian Dalrymple, Vice President, M.I. Homes of Orlando, LLC, 400 International Parkway, Lake Mary, Florida 32746, came forward and addressed the Board in favor of the proposed Final Subdivision Plan. He said, I would like to say that we're that good, that we just go out and make deals with adjacent homeowners, but this is Lake Mary. It's a great City with residents who are smart enough to know what they want, and if you are going to come in and build some houses adjacent to them, they're not shy about asking what they want. So, we thought they were all fair and we want to have good neighbors next to our future homeowners, so we have appreciated working with them and have certainly appreciated working with your staff, and we agree with staff's recommendation to approve. I'll answer any questions that you have.

Chairman Hawkins thanked Mr. Dalrymple for the provisions A-H. He thought it was great the way he handled that and met with the homeowners and addressed all their concerns, and as far as I know, unless we'll hear from somebody, made them all happy.

Mr. Dalrymple stated, we believe so; yes, sir. Thank you.

Chairman Hawkins thanked Mr. Dalrymple for being a good neighbor.

Chairman Hawkins opened the hearing to public comment.

Zane Zulywitz, Vice President of the Whippoorwill Glenn Homeowners Association (properties to the west of the proposed subdivision), 268 Olivia Rose Court, Lake Mary, Florida 32746, came forward and addressed the Board. He questioned where the fence is going to be located that was discussed earlier. He said that he wasn't aware of the fence.

Mr. Noto responded, there are going to be multiple fences. There will be a fence in this location (indicating to overhead projector), there will be fencing here, and I believe there's a hedge buffer proposed for these homeowners.

Mr. Dalyrmple added, there's a hedge – Stan and them didn't want a fence behind their land, so we're actually improving the grading plan here (indicating to overhead projector). We're adding dirt. There is the concern about water going from this spot to his lot, so we're raising the back of his yard up more closer to his pool deck height, and that means that we're – he's got a hedge and irrigation there that we're raising up or replacing, and his drain field is right here on the side of his house where that little planter is right about here in front of that fire hydrant. So, we'll bring the hedge up behind his yard and around that corner and turn that corner to about right there.

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Mr. Zulywitz asked, what's the description on the fence? Is there going to be any specific kind? Is it going to be a wood fence? Is it going to be a concrete fence? Just for beautification purposes so I can get back with my homeowners to let them know.

Mr. Noto replied, no wood fencing. It will either be white or tan vinyl, PVC, or black aluminum, black picket.

Mr. Zulywitz questioned, a second question in regards to the retention pond. I know, Gary, you were involved a couple of years ago with – it must have been about five years ago with the floods we had back in there. Luckily, the college gave us relief from use of a pump to drain to Lake Jessup. Unfortunately, everything here drains into a retention pond that's right here (indicating to overhead projector), and when we had the rains – I forget what year it was – but, basically, the cul-de-sac on Hallmark, as well as my cul-de-sac, was flooding. I mean, literally, we had a few neighbors that couldn't even access their house. They had to go through water. My question is, for the drainage on this, I would imagine you would have culverts going around this new road that you have here and that are going to be drained to that retention pond in the back. Is that going – what is the pathway from that retention pond? Where is the overflow going to be from that retention pond?

Chad Moorhead, P.E., with Madden, Moorhead & Glunt, Inc., 431 E. Horatio Ave., S. 260, Maitland, Florida 32751, came forward and addressed Mr. Zulywitz' question. He stated, the outfall will go into the wetland to the east, and then that wetland connects around and goes down to the college. So, this particular site has what we call a positive outfall.

Mr. Zulywitz said, I wish we had one of those. Okay. Great. He asked, the other question I have is regarding the retention pond itself. Whippoorwill Glen, when the neighborhood was constructed, we were required to put sod and irrigation around it and that currently is being maintained by our homeowners association. If you could address if you guys are going to have irrigation and/or what kind of sod that you are going to have.

Mr. Noto answered, it will be irrigated and sodded/maintained by the HOA. I don't recall off the top of my head what sod was chosen, either Bahia – yeah, which is typical.

Chairman Hawkins questioned, and there won't be sod in the bottom of the pond; right?

Mr. Noto responded, no. That's right.

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Mr. Zulywitz asked, that actually leads into my next question or two. I guess I'll ask the question about the homeowners association. They will have an established homeowners association once all the houses are going to be – that's in the bylaws that you-all are creating?

Mr. Noto replied, yes. They have indicated they are going to have an HOA and we'll look to receive all the documentation as a part of that when we get to the platting process, which will be down the road.

Mr. Dalrymple added, that will be set up before the first home is sold. That's just the way we do it. So, it will be -- to keep our cost down, it will be board managed. We'll have a management company handle the financial track record of the HOA, but at such time when we have nine homeowners, it will be turned over and self-managed, I believe, the same as you are.

Mr. Zulywitz questioned, is that required by the City of Lake Mary to have an HOA, or that is just voluntarily on their part?

Chairman Hawkins answered, no. Yeah. Like Cardinal Oaks Cove doesn't have an HOA.

Mr. Zulywitz asked, the last question I have is regarding lighting. About five years ago, we initiated a project to install lighting from Progress Energy. Are you guys planning on doing any lighting on that road, or no, or at least have it -- when you guys develop it, have it prewired so they don't have to dig trenches later on?

Mr. Noto responded, currently, there is nothing in the plans for street lighting. I can't talk to the pre-wiring though, but Mr. Dalrymple is shaking his head no.

Mr. Zulywitz said, just to be on the record, I would recommend maybe – because you're homeowners like us. We didn't have any power and we agreed, as an association, to have a meeting about it, and, unfortunately, we had lots tore up – or dirt tore up out of those lots. So, that might be something you-all would reconsider. Other than that, I'm okay with everything as Vice President.

Mr. Noto announced that all the items tonight are quasi-judicial in nature; that a Quasi-Judicial Sign-In Sheet (see attached) was located at the back of the chambers for any interested party to sign in order to be kept abreast of these matters.

Hearing no further public comment, Chairman Hawkins closed that portion and entertained board discussion and/or a motion.

Chairman Hawkins commented, personally, I think this is a great developer to come in and handle this the way he has done it. I wish – while we have a lot of developers that do this, I can't remember one doing it to this extent in putting fencing and improvements on other people's property. I think that is above and beyond, and I think that's a really good neighbor and a really good sign of a good developer. So, I applaud M.I. Homes for doing that.

**MOTION:**

**Member Schofield moved to recommend approval to the City Commission the request by M.I. Homes of Orlando, LLC/Brian Dalrymple, Vice President, for a Final Subdivision Plan with variance for Pine Tree Terrace, a nine-lot single-family residential subdivision, 385 Pine Tree Road, Lake Mary, Florida, consistent with staff's seven Findings of Fact regarding the variance listed on page 5 of the Staff Report and Findings of Fact regarding the Final Subdivision Plan listed on page 5 of the Staff Report and subject to the following variance and five conditions. Member Miller seconded the motion, which carried unanimously 5-0.**

**<u>VARIANCE</u>:**

1. **Chapter 154.20, a variance of 5' to allow the placement of a 30" tall retaining wall within 0' of a property line. The retaining wall is proposed to be built to save multiple trees and provide additional buffering for the neighbors to the east. It will be located on Lots 6 and 7 at the terminus of the cul-de-sac 20' from the eastern property line. It will be approximately 60' in length.**

**<u>CONDITIONS</u>:**

1. **The site construction permit shall show irrigation details for the lines around the stormwater pond.**
2. **Per Arbor Board approval, the Applicant shall provide $5,000.00 at the time the site construction permit is issued for the removal of the five (5) historic trees.**
3. **The driveways of Lots 1 and 3 shall be located as such to avoid movement conflicts with Shady Oaks Circle (Lots 1) and Willow Drive (Lot 3).**
4. **The home sizes shall comply with the Developer's Agreement from 1997 (minimum 1,800 square feet).**
5. **Planning and Zoning Board recommends that Provisions for Adjacent Properties, A-H, listed on page ST-1 of this Final Subdivision Plan be included in these conditions.**

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Mr. Noto announced this item will move forward to the February 6, 2014, City Commission meeting.

**QUASI-JUDICIAL SIGN-IN SHEET**

1/14, 2014

P+Z **MEETING**

**(please print)**

**Name** ZANE Zulywitz Phone No. 407-221-8488

Address 268 Olivia Rose Ct, LM 32746

Item of Interest Pine Tree Terrace

**Name** _____ Phone No. _____

Address _____

Item of Interest _____

**Name** _____ Phone No. _____

Address _____

Item of Interest _____

**Name** _____ Phone No. _____

Address _____

Item of Interest _____

**Name** _____ Phone No. _____

Address _____

Item of Interest _____

**Name** _____ Phone No. _____

Address _____

Item of Interest _____

# *MEMORANDUM*

DATE: February 6, 2014

TO: City Commission

VIA: Jackie Sova, City Manager

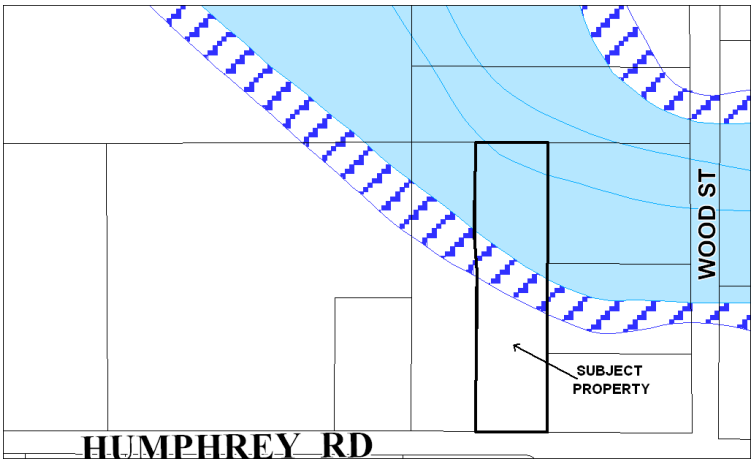
FROM: Steve Noto

SUBJECT: Request for a variance from Chapter 160, Resource Protection Standards, 160.07 (B) (2) (b), to construct a swimming pool at 270 Humphrey Road, Tracy & Kelly Potter, applicant (Public Hearing) (Gary Schindler, City Planner)

---

**REFERENCE:** Lake Mary Code of Ordinances, Chapter 160, Subsections 7(B)(2)(b)

**REQUEST:** The applicants request a variance to Chapter 160 of the City's Code of Ordinances to construct a swimming pool at an existing residential structure.




## DISCUSSION:

**Location:** The property contains +/- 2.38 acres and is located on the north side of Humphrey Road west of its intersection with Wood Street. Soldier's Creek runs diagonally across the northern portion of the property.

**Background:** In 1991, the City Commission approved Ordinance No. 538, the Resource Protection Standards (RPS). The RPS regulations are applicable to those properties that abut the Crystal Lake Basin and Soldier's Creek. The RPS requires that the applicant provide documentation regarding the location of wetland and the 100-year flood area. From whichever line or portion of line is most landward, there is a 25' environmental buffer and a 75' building setback.

Per the Seminole County Property Appraiser's website, the subject property is Lot 2 of the Leckie Subdivision. The subdivision contains a total of 2 lots and the plat was recorded in 1987. The existing dwelling was completed in 1997. The existing dwelling, wooden deck and steps encroach about 50' into the minimum 75' building setback. Staff could not find any record of a variance being approved to allow the dwelling to be constructed within the building setback area. Currently, the applicants propose to construct a swimming pool on the rear of the existing dwelling.

Because the subject property abuts Soldier's Creek, the RPS provisions are applicable. The applicant has provided a graphic showing the location of the existing residence, the proposed swimming pool, the wetland limits, and the location of the 100-year flood line. The 100-year flood line is the more landward of the two lines. The proposed swimming pool would encroach approximately 73' into the minimum 75' setback. The swimming pool does not encroach into the minimum 25' wide environmental buffer, the wetlands or the 100-year flood plain.

The applicant has provided a signed and sealed survey, showing the property boundary, the placement of the existing dwelling, wooden deck and steps, the location of the wetlands and limits of the 100-Year flood zone. Utilizing the applicant's survey, staff has added the location of the 25' wide environmental buffer and the 75' setback area. Because of the proposed encroachment into the setback area, a variance is required. The requested variance is as follows: ***Section 160.07(B)(2)(b) - a variance of 73' from the minimum 75' building setback.***

## VARIANCE CRITERIA (Section 154.06):

The Planning and Zoning Board shall make a written recommendation to the City Commission that all of the following criteria have been met:

| CRITERIA No. 1: | |
|---|---|
| *That a special condition and circumstance exists which is peculiar to the land, structures, or subdivision improvements involved, and which are not applicable to other lands, structures, or required improvements; and* | |
| FINDINGS OF FACT No. 1: | |
| Criteria met? | The special conditions are that, in 1987, the City approved the subdivision of the parent tract into 2 lots. In 1997, the City approved the construction of a dwelling on the subject property. Currently, the dwelling encroaches into the minimum 75' building setback. The applicant proposes to construct a swimming pool, which is an accessory to the dwelling. |
| YES | |

| CRITERIA No. 2: | |
|---|---|
| *That the special conditions and circumstances do not result from the actions of the applicant; and* | |
| FINDINGS OF FACT No. 2: | |
| Criteria met? | Although the proposed swimming pool increases the degree of encroachment, it is a usual accessory structure to a single family residence & does not encroach into the 25' environmental buffer, the wetlands or the 100-year flood area. Additionally, the proposed swimming pool is not excessively large and complies with all other relevant setbacks for the RCE zoning district. As such, the proposed use of the property is reasonable and does not result from the actions of the applicant. |
| YES | |

| CRITERIA No. 3: | |
|---|---|
| *That granting the variance requested would not confer on the applicant any special privilege that is denied by the provisions of this section to other lands, structures, or required improvements under similar conditions. No pre-existing conditions on neighboring lands which are contrary to the provisions of the section shall be considered grounds for the issuance of variances; and* | |
| FINDINGS OF FACT No. 3: | |
| Criteria met? | Granting the variance will not confer a special privilege that has not been previously granted other properties. |
| YES | |

| CRITERIA No. 4: | |
|---|---|
| *That literal interpretation of the provisions of the section would deprive the applicant of rights commonly enjoyed by other properties with similar conditions; and* | |
| FINDINGS OF FACT No. 4: | |
| Criteria met? | A swimming pool is considered a standard accessory structure to single family dwellings. The literal interpretation of the provisions will deprive the applicant of rights commonly enjoyed by other properties with similar conditions. |
| YES | |

| CRITERIA No. 5: | |
|---|---|
| *That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or other improvements; and* | |
| FINDINGS OF FACT No. 5: | |
| Criteria met? | A variance is required to make reasonable use of the property for a single-family residence with an accessory swimming pool. |
| YES | |

| CRITERIA No. 6: | |
|---|---|
| *That the grant of the variance will be in harmony with the general intent and purpose of the ordinance, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.* | |
| FINDINGS OF FACT No. 6: | |
| Criteria met? | Granting the variance would be in harmony with the general intent and purpose of Ordinance 538 "Resource Protection Standards", which are very stringent and designed specifically for the protection of Crystal Lake and Soldier's Creek. |
| YES | |

**FINDINGS OF FACT:** Staff finds that the applicant has met all of the criteria as stated above to conditionally approve the requested variance of:

1. 73' from the minimum 75' setback, required by Section 160,07 (B (2)(b).

The condition is that, prior to the final inspection for the swimming pool, the applicant shall construct a vegetated berm on the north, east, & west sides of the swimming pool. The berm shall be a minimum of 1' high and shall have side slopes that are a minimum of 3' to 1'. It shall be located on the lot in such a manner as to compensate for the increased encroachment into the setback area. If St. Augustine grass is used, the berm shall be irrigated. If drought resistant species of grass are used, the berm need not be irrigated.

If the Board wishes to recommend approval of the variance, it must include in its motion that conditions pertaining to all criteria have been met.

**PLANNING AND ZONING BOARD:** At their regular January 14, 2014 meeting, the P&Z voted 5 to 0 to recommend approval of the requested variance with the condition recommended by staff.

**SIMILAR VARIANCE REQUEST:** The Commission has reviewed and approved 17 similar requests for variances involving Chapter 160. Historically, the City Commission has approved those variance requests, as long as they did not result in additional density.

## ADDITIONAL INFORMATION:

Section 154.06(C) states "Any person aggrieved by the City Commission's decision regarding a preliminary or final subdivision plan or plat, or the City Commission's decision regarding any variance, may file a petition for a writ of certiorari in the circuit court of the county to review the final action as provided by the state appellate rules. The petition shall be presented to the court within 30 days after the date of the final action of the City Commission."

**LEGAL DESCRIPTION:** LEGAL LOT 2, LECKIE SUBDIVISION, OR BOOK 37 & PAGE 58

## ATTACHMENTS:

- Location Map
- Zoning Map
- Land Use Map
- Aerial Photo
- Site Graphic
- Applicant's Narrative Statement
- Arbor Board minutes
- Planning and Zoning Board minutes

# Location Map
# 270 Humphrey Rd.

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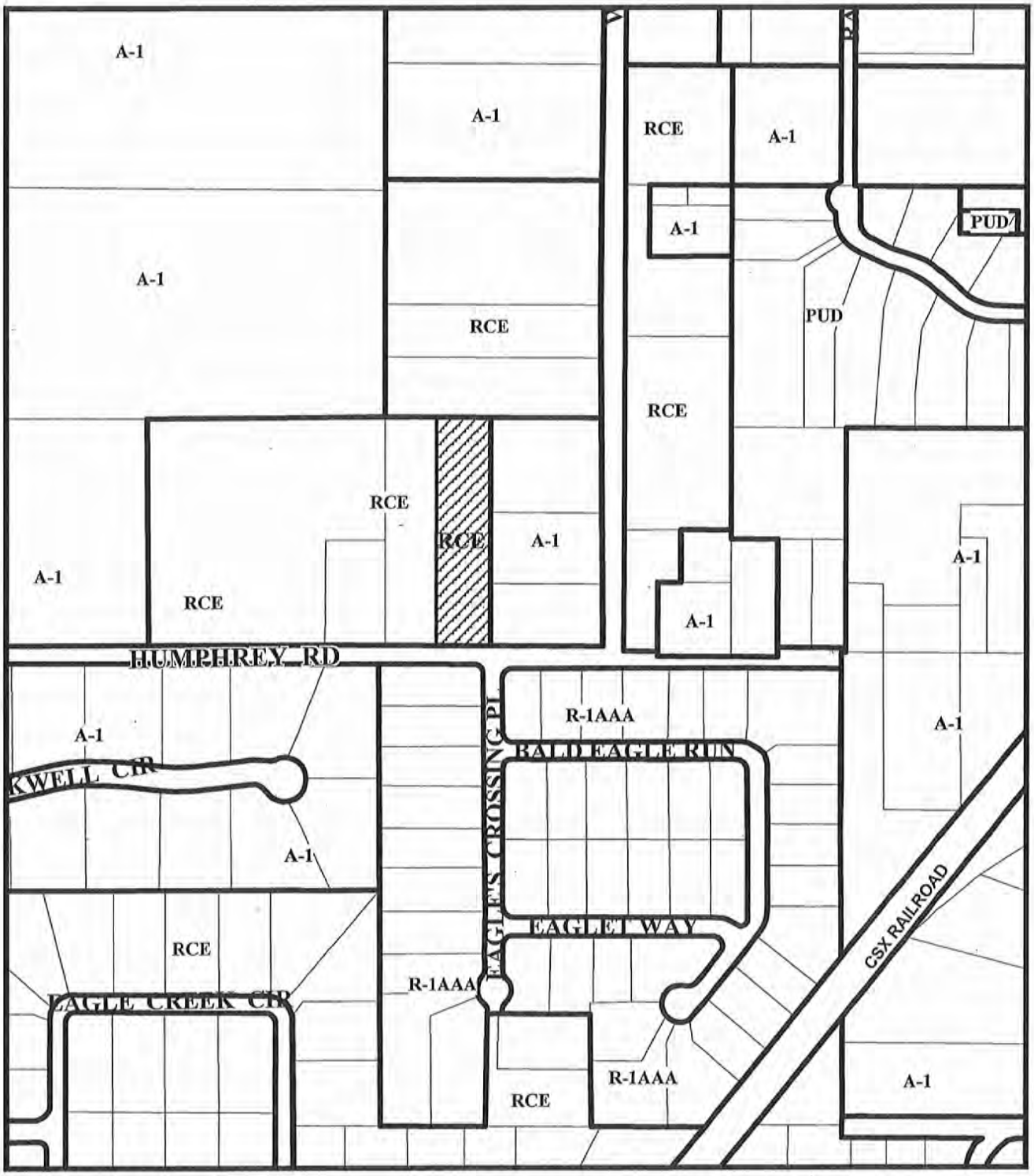


# Zoning Map

**LEGEND**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| A-1 | Agriculture | R-1AAA | Single Family | PUD | Planned Unit Development | M-1A | Light Industrial |
| RCE | Rural Country Estate | R-M | Residential | PO | Professional Office | M-2A | Industrial |
| R-1A | Single Family | R-2 | One & Two Family | C-1 | General Commercial | DC | Downtown Center |
| R-1AA | Single Family | R-3 | Multiple Family | C-2 | Commercial | GU | Government Use |
| | | | | | | SC PUD | Sem. Cnty PUD |

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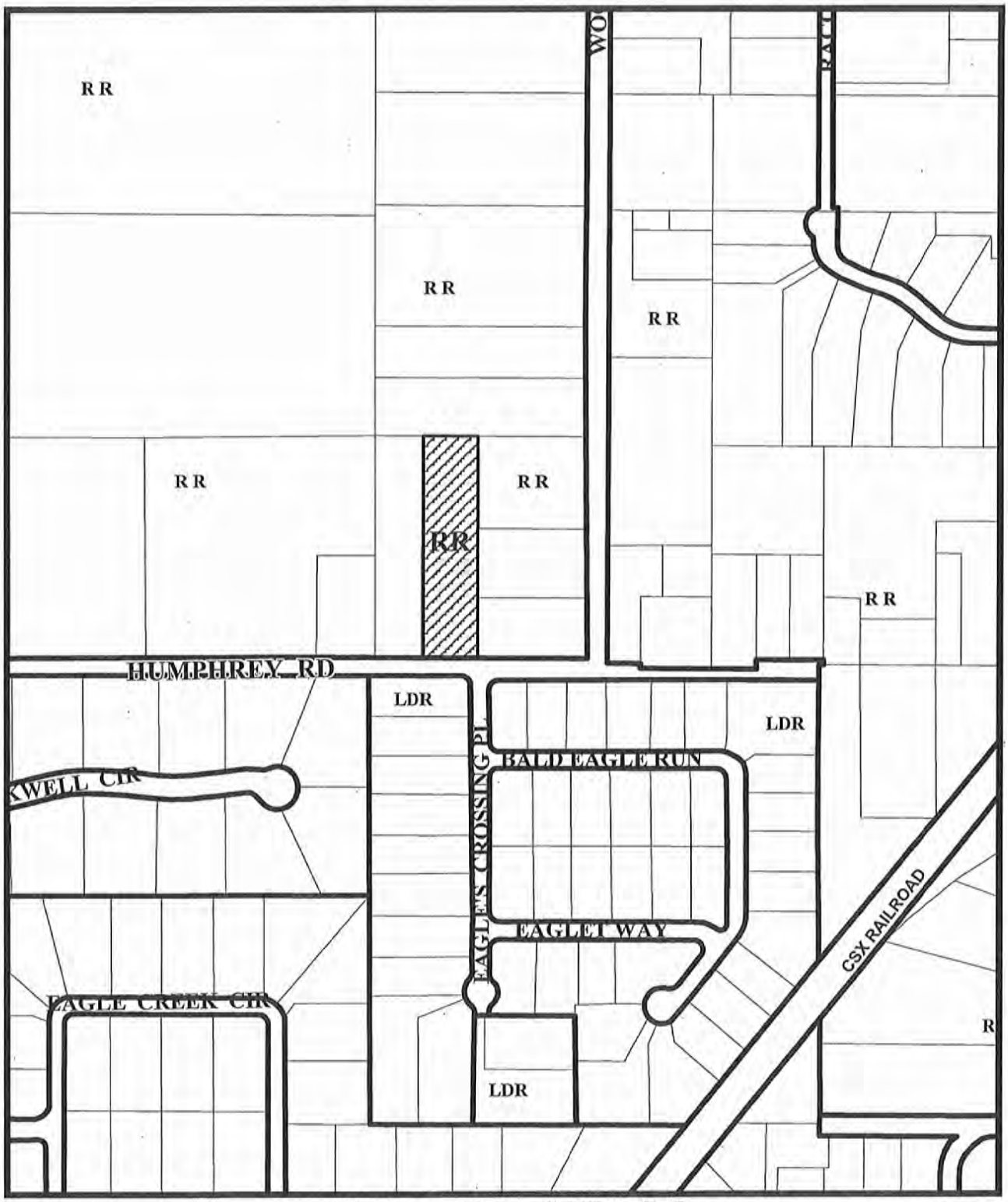


# Future Land Use Map

| | | | | | |
|---|---|---|---|---|---|
| RR | Rural Residential | OFF | Office | PUB | Public / Semi-Public Lands |
| LDR | Low Density Residential (Max 2.5 DU / Acre) | RCOM | Restricted Commercial | DDD | Downtown Development District |
| LMDR | Low / Medium Density Residential (Max 4 DU / Acre) | COM | Commercial | REC | Recreation |
| MDR | Medium Density Residential (Max 6 DU / Acre) | IND | Industrial | SC PD | Seminole County PD |
| HDR | High Density Residential (Max 9 DU / Acre) | HIPTI | High Intensity Planned Development | | |

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Wood Street
Humphrey Rd.
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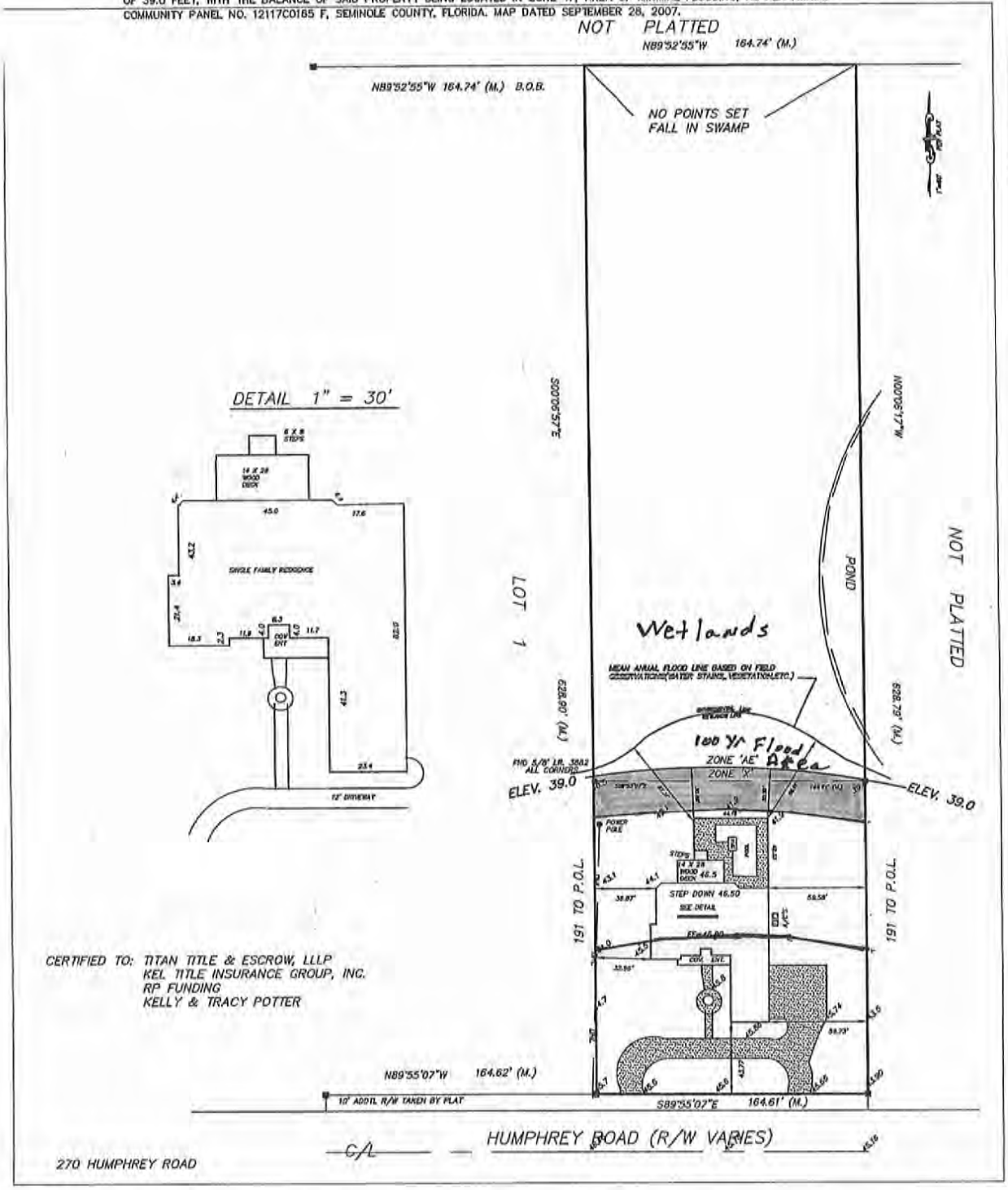
# BOUNDARY SURVEY

LEGAL DESCRIPTION: LOT 2, LECKIE SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 17, PAGE 58, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

PART OF THE ABOVE REFERENCED PROPERTY IS LOCATED IN ZONE 'AE', AREA OF 100 YEAR FLOODING WITH A BASE FLOOD ELEVATION OF 39.0 FEET, WITH THE BALANCE OF SAID PROPERTY BEING LOCATED IN ZONE 'X', AREA OF MINIMAL FLOODING, AS PER F.I.R.M. COMMUNITY PANEL NO. 12117C0165 F, SEMINOLE COUNTY, FLORIDA. MAP DATED SEPTEMBER 28, 2007.




CERTIFIED TO: TITAN TITLE & ESCROW, LLLP
KEL TITLE INSURANCE GROUP, INC.
RP FUNDING
KELLY & TRACY POTTER

## LEGEND

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| ■ | FOUND CONCRETE MONUMENT | CONC. | CONCRETE | M. | MEASURED | SCR. | SCREEN |
| ● | FOUND PROPERTY CORNER | COR. | CORNER | N | NORTH | S.W. | SIDEWALK |
| O | SET PROPERTY CORNER | COV. | COVERED | N/D | NAIL & DISC | T | TANGENT |
| ⊙ | PERMANENT CONTROL POINT | D. | DESCRIBED | P.C. | POINT OF CURVATURE | TEL. | TELEPHONE RISER BOX |
| Δ | DELTA | D.E. | DRAINAGE EASEMENT | P.C.P. | PERMANENT CONTROL POINT | TYP. | TYPICAL |
| A/C | AIR CONDITIONER | E | EAST | P.T. | POINT OF TANGENCY | U.E. | UTILITY EASEMENT |
| BLK. | BLOCK | ENT. | ENTRANCE | P.O.B. | POINT OF BEGINNING | U.R.B. | UTILITY RISER BOX |
| B.O.B. | BASIS OF BEARING | ENCL. | ENCLOSURE | P.O.C. | POINT OF COMMENCEMENT | W | WEST |
| BRG. | BEARING | ESMT. | EASEMENT | P.O.L. | POINT ON LINE | W.F. | WOOD FENCE |
| CATV | CABLE TELEVISION BOX | FND. | FOUND | P. | PLAT | W.M. | WATER METER |
| CHD. | CHORD | I.P. | IRON PIPE | R | RADIUS / RADIAL | | |
| C.L.F. | CHAIN LINK FENCE | I.R. | IRON ROD | S | SOUTH | | |
| C.M. | CONCRETE MONUMENT | L | LENGTH | SAN. | SANITARY | | |

## NOTES

1. BEARINGS ARE BASED ON RECORD PLAT.
2. THE SURVEY SHOWN HEREON WAS SURVEYED BY THE LEGAL DESCRIPTION PROVIDED BY THE CLIENT.
3. ROOF OVERHANGS AND FOOTERS HAVE NOT BEEN LOCATED.
4. NO IMPROVEMENTS OR UNDERGROUND UTILITIES HAVE BEEN LOCATED EXCEPT AS SHOWN.
5. THIS SURVEY IS NOT VALID WITHOUT EMBOSSED SEAL.
6. THIS SURVEY IS NOT VALID FOR ANY REAL ESTATE TRANSACTIONS 90 DAYS BEYOND THE FINAL SURVEY DATE SHOWN.
7. THE SURVEYOR HAS NOT ABSTRACTED THE LANDS HEREON FOR EASEMENTS OR RIGHT-OF-WAY OF RECORD.
8. THERE MAY ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
9. ALL BEARINGS / ANGLES AND DISTANCES ARE PLAT AND MEASURED UNLESS NOTED OTHERWISE.

I HEREBY CERTIFY THAT THIS SURVEY MEETS OR EXCEEDS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 61G17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 427.027, FLORIDA STATUTES.

12-11-13

CHARLES R. DEFOOR, P.L.S. 4189 — DATE

PREPARED FOR: KELLY & TRACY POTTER

PREPARED BY:

CHARLES ROB DEFOOR & ASSOCIATES, INC.

P.O. BOX 1763, APOPKA FLORIDA 32703 (407) 880-9811 437 KHOLL TRCE

| | |
|---|---|
| LOT SURVEY DATE: | |
| FOUNDATION DATE: | |
| FINAL SURVEY DATE: | 6-13-12 |
| DRAWN DATE: | 6-13-12 |
| SCALE: | 1" = 60' |
| PAGE | 1 OF 1 |
| REVISION DATE: | ADDED TOPO & ENVIROMENTAL-WETLANDS LINE 12-11-13 |

To whom it may concern,

My name is Tracy Potter and I am writing to request that my family and I are given permission to build a pool behind our existing home. We have
3 active and athletic kids, one of which is a competitive swimmer. A backyard pool would be a welcomed addition to a property we truly love.

We have been working with the City of Lake Mary staff, provided and Environmental survey of the property, and completed the variance application form. Additional information including pool plan has been submitted as well.
Thank you for your consideration. Please contact us with any other information you may need.

Sincerely,

Tracy Potter

Tracy and Kelly Potter
270 Humphrey Rd.
Lake Mary, FL. 32746

RECEIVED
DEC 16 2013
CITY OF LAKE MARY
COMMUNITY DEVELOPMENT DEPT.

DRAFT

C. 2013-VA-04: Recommendation to the City Commission for a variance from Chapter 160, Resource Protection Standards, 160.07 (B) (2) (b), to construct a swimming pool at 270 Humphrey Road, Lake Mary, Florida; Applicant: Tracy and Kelly Potter (Public Hearing)

Gary Schindler, City Planner, presented Item C. and the related Staff Report. A colored copy of the aerial attached to the Staff Report was on the overhead projector. He stated, you can see the aerial photo there. It shows you the location. Longwood-Lake Mary Road would be to your left and then the road to the right you will see is Wood Street. So, you can get a reference as to where the property is.

Mr. Schindler requested Stephen Noto, Senior Planner, to put up a copy of the Boundary Survey attached to the Staff Report. He said, we have a lot in a two-lot subdivision. The subdivision was recorded in 1987. That was prior to the Chapter 160, Resource Protection Standards, being adopted, which were adopted in '91. The house was permitted in 1997. So, we have a lot that was created before the Resource Protection Standards, the house that was created subsequent to it. The policy at that time appears to be that they really didn't address the Resource Protection Standards because you can see that the green area is the 25-foot environmental buffer and the yellow area is the 75-foot building setback. Well, it runs right through two bathrooms and the TV room.

Chairman Hawkins interjected questioning, maybe the kitchen?

Mr. Schindler replied, does it run through the kitchen? No. Okay. Maybe it splits the dining room table. Now, if this were today, we would be requiring that this be addressed as part of the subdivision and, more than likely, the subdivision process would require the variance at that time, but it predated it.

Mr. Schindler stated, so, we have a house that was built, encroached into the 75-foot setback. Now, the 25 and the 75-foot setback are premised upon the location of the 100-year flood line, and that is determined by Ms. Danielle Koury, who is the City's stormwater engineer. When people come over, we send them to her and she gives them an elevation, and then a surveyor comes out on the property and finds that elevation and stakes out the elevation on the property. Also, the wetlands, which are here (indicating to overhead projector), that's determined by an environmental consultant who comes out to the property and walks from side to side, and when he or she finds a wetlands plant, they put a stake. They do that until they go all across the property until they can determine where a line is from side to side or from wherever the limits of the wetlands are. Then a surveyor comes out and surveys those lines and puts them on the survey that we have. We have a signed-and-sealed survey with this information on it.

DRAFT

Staff took a copy of that survey and then added the 25-foot and the 75-foot. That's done by staff.

Mr. Schindler stated, now, historically, the City Commission has permitted a swimming pool and other normal accessory uses. They have always supported the variances for accessory uses.

Mr. Schindler said, the variance is a variance of 73' from the minimum 75-foot setback required by Section 160.07(B) (2) (b) for the addition of the swimming pool and the pad. Is there a screen room that's proposed? (Negative nods from the audience). No screen room. It's not overly large. It's appropriate for the property, and it does not encroach into the 25-foot environmental buffer, it does not encroach into the 100-year flood plain and does not encroach into the wetlands.

Mr. Schindler stated, in light of that, staff has answered affirmatively to the six Findings of Fact, and Finding of Fact No. 7 says that staff finds that the Applicant has met all the criteria as stated to conditionally approve the requested variance of 73' from the minimum 75-foot requirement of Section 160.07(B) (2) (b) with the condition that prior to the final inspection for the swimming pool, the Applicant shall construct a vegetated berm on the north, east and west sides of the swimming pool (indicating to overhead projector). The berm shall be a minimum of 1 foot high and shall have side slopes that are a minimum of 3' to 1 foot. It shall be located on the lot in such a manner as to compensate for the increased encroachment into the setback area. If St. Augustine grass is used, the berm shall be irrigated. If drought-resistant species of grass are used, the berm need not be irrigated. That simply means you pile up the dirt 1 foot high and then you taper it out 3' back to grade. It's to be vegetated. This berm and the vegetation, one, it prevents rampant runoff into Soldier's Creek, which is one of our two most environmentally-sensitive areas, and two, the vegetation on it causes the – slows down the water and causes it to drop its sediments. So, it will help keep sediments out of Soldier's Creek, it will keep them out of the wetlands and will keep them out of eventually getting into Lake Jessup.

Mr. Schindler concluded his presentation by saying, so, that is what staff is recommending. I will be happy to address any questions you may have.

Chairman Hawkins commended Mr. Schindler on his excellent presentation.

Mr. Schindler thanked Chairman Hawkins.

DRAFT

Chairman Hawkins requested the Applicants come forward and address the Board.

Tracy Potter, Kelly Potter, Madison Potter, Olivia Potter and Logan Potter, 270 Humphrey Road, Lake Mary, Florida 32746, came forward in favor of the proposed variance.

Chairman Hawkins asked Madison Potter if she agreed with Mr. Schindler's presentation and everything he presented.

Ms. Potter answered, yes, sir.

Chairman Hawkins questioned Madison Potter if she had anything further to add.

Ms. Potter responded, I love to swim.

Chairman Hawkins said, that's a good thing to add.

Olivia Potter simply stated she was 14.

Logan Potter simply stated his name and address.

Chairman Hawkins opened the hearing to public comment. Hearing none, he closed that portion and entertained board discussion and/or a motion.

**MOTION:**

**Member Schofield moved to recommend approval to the City Commission the request by Tracy and Kelly Potter for a variance from Chapter 160, Resource Protection Standards, 160.07 (B) (2) (b), to construct a swimming pool at 270 Humphrey Road, Lake Mary, Florida, consistent with staff's Findings of Fact listed on page 4 of the Staff Report and subject to the following condition. Member Fitzgerald seconded the motion, which carried unanimously 5-0.**

**<u>CONDITION</u>:**

**The Board finds that conditions pertaining to all criteria have been met and staff finds that the Applicant has met all the criteria as stated in the Staff Report to conditionally approve the requested variance of:**

DRAFT

1. **73' from the minimum 75-foot setback required by Section 160.07(B) (2) (b).**

**The condition is that, prior to the final inspection for the swimming pool, the Applicant shall construct a vegetated berm on the north, east and west sides of the swimming pool. The berm shall be a minimum of 1 foot high and shall have side slopes that are a minimum of 3' to 1 foot. It shall be located on the lot in such a manner as to compensate for the increased encroachment into the setback area. If St. Augustine grass is used, the berm shall be irrigated. If drought-resistant species of grass are used, the berm need not be irrigated.**

Mr. Schindler announced this item will move forward to the City Commission meeting on February 6, 2014.

**QUASI-JUDICIAL SIGN-IN SHEET**

1/14, 2014

P+Z **MEETING**

**(please print)**

**Name** ZANE Zulywitz Phone No. 407-221-8488

Address 268 Olivia Rose Ct, LM 32746

Item of Interest Pine Tree Terrace

**Name** _____ Phone No. _____

Address _____

Item of Interest _____

**Name** _____ Phone No. _____

Address _____

Item of Interest _____

**Name** _____ Phone No. _____

Address _____

Item of Interest _____

**Name** _____ Phone No. _____

Address _____

Item of Interest _____

**Name** _____ Phone No. _____

Address _____

Item of Interest _____

# ***MEMORANDUM***

DATE: February 6, 2014

TO: City Commission

VIA: Jackie Sova, City Manager

FROM: Deb Barr, Senior Programs Manager

SUBJECT: Ordinance No. 1502 - Amend Chapter 92 of the Code of Ordinances, providing for fees for participation in activities at the Senior Center - First Reading (Public Hearing)

---

The Lake Mary Senior Center has shown a steady increase in attendance and participation in programs. In the past 3 years, participation has increased by 17% from 18,258 visits in Fiscal Year 2011 to 21,289 in Fiscal Year 2013. Waivers on file show that 175 out of 935 or only 18.7% of the participants are City of Lake Mary jurisdictional residents. There is no required entry fee and the program instructors have historically been funded through donations by the participants and through the Elder Affairs Commission led Shred-A-Thon totaling $20,362 in Fiscal Year 2013. The total operating budget for the Senior Center for Fiscal Year 2014 is $114,354. Currently the instructors do not collect fees or donations, but rather are paid directly by the City for the programs they lead. The Senior Center averages 18 instructor led programs per week and instructors are paid between $20 and $50 per class.

As participation continues to increase, the possibility for overcrowding of the Senior Center is a concern. To ensure City of Lake Mary residents are not displaced from being able to participate, it is recommended a fee structure be implemented. The proposed fee structure below would provide for a membership fee for non-residents and a nominal fee per instructor led program.

**Entry Fee to the Senior Center**
Residents: Free
Non-Residents: $20 per year or $1 per visit

**Instructor Led Programs**
$1-$2 per class (determined by level of instruction) for all participants.

For consistency with other Parks and Recreation programming and to incentivize the instructors to maximize participants, instructors will begin to collect their own fees at the authorized amount of $1-$2 per class. Current instructors will keep 100% of what they collect and the City of Lake Mary will continue to pay them 25% of the rate they have been historically paid. New instructors will receive a flat rate of $5 per class and will also retain 100% of what they collect.

The Elder Affairs Commission recommended approving the proposed fees during their meeting on January 13, 2014.

For reference and comparison, a chart showing the rates charged by other Senior Centers in Central Florida has been attached.

**RECOMMENDATION**:
Request Commission adopt Ordinance No. 1502 establishing the membership fees for non-residents be set at $20 per year or $1 per day and rates of $1-$2 per class be set for all participants in instructor led programs at the Senior Center.

Attached:
1. Senior Center comparison

**ORDINANCE NO. 1502**

AN ORDINANCE OF THE CITY OF LAKE MARY, FLORIDA, AMENDING CHAPTER 92 OF THE CODE OF ORDINANCES ENTITLED "PARKS AND PLAYGROUNDS"; ESTABLISHING FEES FOR NON-RESIDENTS USE OF THE LAKE MARY SENIOR CENTER; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, during Fiscal year 2013, the Lake Mary Senior Center had an attendance of 21,289 participants; and

WHEREAS, it has been determined that only 18.7% of the participants are corporate Lake Mary residents; therefore, Lake Mary taxpayers are subsidizing the senior center for non-resident use; and

WHEREAS, it is necessary to begin charging a yearly membership fee or daily fee to non-residents.

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION:

**SECTION I**. Chapter 92 of the Code of Ordinances is hereby amended as follows:

## CHAPTER 92: PARKS AND PLAYGROUNDS

### SENIOR CENTER

### § 92.60 FEES.

**A.** The following fees are hereby established for use of the Senior Center. Sales tax as applicable shall also be paid. Full-time City employees shall receive a 50% discount on rentals.

| | CLASS "A" | | CLASS "B" | | CLASS "C" | |
|---|---|---|---|---|---|---|
| | SINGLE USAGE | | ON-GOING<br><br>(MINIMUM OF 6 RENTALS IN 6 MONTHS) | | GOV'T, CIVIC<br><br>(MON – THUR EVENINGS ONLY. REQUIRES WRITTEN APPROVAL OF CITY MANAGER OR DEPT. DIRECTOR) | |
| | RESIDENT* | NON-RESIDENT | RESIDENT* | NON-RESIDENT | RESIDENT* | NON-RESIDENT |

| | | | | | | |
|---|---|---|---|---|---|---|
| RENTAL RATE | $50/hr | $75/hr | $25/hr | $37.50/hr | FREE | N/A |
| DEPOSIT | $200 | $200 | $100 | $100 | $50 | N/A |
| CLEAN-UP RATES | $50/hr | $50/hr | $50/hr | $50/hr | | N/A |
| DAMAGE | cost | cost | cost | cost | cost | N/A |
| EXTRA TIME | 2 x Regular Rate | 2 x Regular Rate | 2 x Regular Rate | 2 x Regular Rate | Not Available | N/A |
| HOLIDAYS | 1.5 x Regular Rate | 1.5 x Regular Rate | 1.5 x Regular Rate | 1.5 x Regular Rate | Not Available | N/A |
| PAYMENT IN FULL IS DUE | 10 days prior to use | 10 days prior to use | 10 days prior to use | 10 days prior to use | 10 days prior to use | N/A |
| MINIMUM/ MAXIMUM USAGE | 2 hours minimum | 2 hours minimum | 2 hours minimum | 2 hours minimum | 3 hrs/1 x per month maximum | N/A |
| NO SHOW FEE | N/A | N/A | N/A | N/A | Forfeiture of Deposit | N/A |
| CANCELLATION NOTICE REQUIRED | 30 days for refund | 30 days for refund | 30 days for refund | 30 days for refund | 10 days | N/A |

*A resident is someone who lives within the corporate city limits of Lake Mary. Proof of residency will be required

**B. The yearly membership fee for non-residents of Lake Mary to participate in activities at the Lake Mary Senior Center shall be $20 per year or $1 per visit.**

**C. $1 to $2 shall be charged for all participants in instructor led classes.**

**Section II.** ***Severability.*** If any portion of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of the Ordinance. If this Ordinance or any provisions thereof shall be held to be inapplicable to any person, property, or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

**Section III.** **Conflicts.** All ordinances or resolutions or parts of ordinances or resolutions in conflict herein are hereby repealed to the extent of any conflict.

**Section IV.** **<u>Codification.</u>** It is the intention of the City Commission that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Lake Mary, Florida and the word "ordinance" may be changed to "section", "article", or other appropriate word or phrase and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

**Section V.** **<u>Effective date.</u>** This Ordinance shall take effect April 1, 2014.

PASSED AND ADOPTED this 20th day of February, 2014.

FIRST READING: February 6, 2014

SECOND READING: February 20, 2014.

CITY OF LAKE MARY, FLORIDA

_____
MAYOR, DAVID J. MEALOR

ATTEST:

_____
CITY CLERK, CAROL A. FOSTER

For the use and reliance of the City
Of Lake Mary only. Approved as to
Form and legal sufficiency.

_____
CATHERINE REISCHMANN, CITY ATTORNEY

**Winter Springs** is the only senior center that bases their fees on residency. They are also the only senior center that has a membership fee which is $25 WS resident and $65 non-residents per calendar year, not including pool use. Starting October of each year, they will only charge half price for the remainder of the year. They charge a $5 daily fee which includes use of the pool. Bingo and card players are required to either purchase a membership or pay a daily fee. Instructors are volunteers and are allowed to put out baskets for donations.

**Sanford** is free. Instructors collect donations for classes. Participants for H2U Yoga must be registered with H2U and the hospital pays for the instructor.

**Oviedo** does not have a senior center facility.

**Altamonte Springs** does not have a senior center and therefore does not charge a membership fee, but offers classes to seniors. Registration and fees are required per session. The therapeutic pool does have a resident/non-resident membership fee.

**Maitland** has an approved senior membership fee, but has decided not to implement it due to the difficulties it could cause. The approved rate was free for Maitland residents and $50 for non-residents. Currently participants check in at each class and put the designated price into a basket for each instructor led class. The instructor is responsible for making sure the attendance matches the money collected, turns in the attendance sheet after each class and pays Maitland 10% at the end of each month.

**Renaissance (Orange County)** has a $10 yearly fitness membership that is for the fitness center only, but does not require residency. Renaissance is similar to Maitland for exercises classes, but the instructor pays 20%. The average class fee is $5. Volunteers that teach classes can collect donations and do not pay anything to the center. Renaissance pays for all background checks.

**Beardall (City of Orlando)** No membership fee. Classes taught by volunteers are free. Classes that are taught by paid instructors are a per class fee. Yoga is $5 per class, Tai Chi is $10 or $15 per month. Instructors are 70/30. Only some classes are resident/nonresident fee based, but getting away from that, too much work.

# *MEMORANDUM*

DATE: February 6, 2014

TO: City Commission

VIA: Jackie Sova, City Manager

FROM: Stephen Noto

SUBJECT: Resolution No. 928 - Joint Participation Agreement with FDOT for SunRail Station Connectivity Upgrades (Stephen Noto, Senior Planner)

---

**BACKGROUND:** In December 2013, the City Commission approved Resolution No. 927, entering into a Local Funding Agreement (LFA) with FDOT for obligation of SunRail Enhancement Funds. Upon approval, FDOT staff informed the City that due to the technicalities involved in acquiring the enhancement funds, a Joint Participation Agreement (JPA) would be the more appropriate legal framework to use in lieu of the LFA.

For informational purposes, the items that are being funding as part of this JPA are as follows:

- Add a 6' wide sidewalk located on the west side of N. Palmetto Street adjacent to the SunRail property.
- Add a new 6' wide sidewalk, 1000 feet in length, between the southwest corner of the SunRail platform and the intersection of N. Country Club Rd and E. Lakeview Ave.
- Provide a crosswalk at the northern segment of the N. Country Club Rd. and Lakeview Ave. intersection. To ensure maximum safety, Rectangular Rapid Flashing Beacons (RRFB) are proposed to be mounted to the crosswalk signs.
- Purchase and install an Entry Sign at N. Palmetto St. and W. Lake Mary Blvd.
- Add a traffic signal at the intersection of N. Palmetto St. and W. Lake Mary Blvd.

The estimated cost of all items adds up to $369,238.00, which was the remaining balance of enhancement funds available to the City. The City's 20% match, per FDOT, is $92,310.00.

**DISPOSITION:** Staff recommends approval of Resolution No. 928.

## ATTACHMENTS:

- Resolution No. 928
- Map showing location of improvements

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# RESOLUTION NO. 928

**A RESOLUTION OF THE CITY OF LAKE MARY, FLORIDA, ENTERING IN TO A JOINT PARTICIPATION AGREEMENT BETWEEN THE CITY OF LAKE MARY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION REGARDING ENHANCEMENTS TO THE CITY OF LAKE MARY SUNRAIL STATION LOCATED NEAR THE INTERSECTION OF LAKE MARY BOULEVARD AND PALMETTO STREET; AUTHORIZING EXECUTION OF EFFECTING DOCUMENTS AND PROVIDING EFFECTIVE DATE.**

**WHEREAS,** the Florida Department of Transportation (FDOT) and the City of Lake Mary (City) recognize the benefit of enhancements to the City's SunRail Station; and

**WHEREAS,** FDOT has prepared a Joint Participation Agreement (Agreement), which requires the City to provide a 20% match for the cost of additional SunRail Station enhancements in the amount of $92,310; and

**WHEREAS,** The Agreement outlines FDOT agreeing to maximum participation in the amount of $276,928; and

**WHEREAS,** FDOT and the City agree that the terms of the Agreement will be completed on or before March 31, 2015; and

**WHEREAS,** it is the intent of the City to enter into the proposed Agreement.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Mayor and City Commission of the City of Lake Mary, Florida:

Section 1 The Mayor of the City of Lake Mary, be and he is hereby authorized and directed to execute the proposed Agreement, attached as Attachment "A".

Section 2 EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 6th Day of February, 2014.

CITY OF LAKE MARY, FLORIDA

_____
MAYOR, DAVID J. MEALOR

ATTEST:

_____
CITY CLERK, CAROL A. FOSTER

Approved as to form and legality for use and reliance upon by the City of Lake Mary, Florida.

_____
CATHERINE D. REISCHMANN, CITY ATTORNEY

ATTACHMENT "A"

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

# PUBLIC TRANSPORTATION JOINT PARTICIPATION AGREEMENT



| | | |
|---|---|---|
| Financial Project Number(s): (item-segment-phase-sequence) 412994-3-52-04 | Fund: 010 | FLAIR Category.: 088809 |
| | Function: 203 | Object Code: 790004 |
| | Federal Number: n/a | Org. Code: 55310000937 |
| Contract Number: | DUNS Number: 80-939-7102 | Vendor No.: F591484975011 |
| CFDA Number: 20.500 | Agency DUNS Number: 87-8503938 | CSFA Number: n/a |
| CFDA Title: Capital Investment Grant | | CSFA Title: n/a |

THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter referred to as the Department, and City of Lake Mary P.O. Box 958445, 100 N. Country Club Rd., Lake Mary, FL 32795 hereinafter referred to as Agency. The Department and Agency agree that all terms of this Agreement will be completed on or before March 31, 2015 and this Agreement will expire unless a time extension is provided in accordance with Section 16.00.

WITNESSETH:

WHEREAS, the Agency has the authority to enter into said Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under 341.053, Florida Statutes, to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

**1.00 Purpose of Agreement:** The purpose of this Agreement is to provide funding for the City of Lake Mary to complete enhancements at the SunRail Station to include:
Pedestrian Connectivity System:
1. Add a 6' wide sidewalk located on the west side of N. Palmetto Street adjacent to the SunRail property.
2. Add a new 6' wide sidewalk, 1000 feet in length, between the southwest corner of the SunRail platform and the intersection of N. Country Club Rd and E. Lakeview Ave.
3. Provide a crosswalk at the northern segment of the N. Country Club Rd. and Lakeview Ave. intersection. To ensure maximum safety, Rectangular Rapid Flashing Beacons (RRFB) are proposed to be mounted to the crosswalk signs.

Entry Feature:
Purchase and install an Entry Sign at N. Palmetto St. and W. Lake Mary Blvd.
Traffic Signal:
Add a traffic signal at the intersection of N. Palmetto St. and W. Lake Mary Blvd.

and as further described in Exhibit(s) A,B,C,D attached hereto and by this reference made a part hereof, hereinafter referred to as the project, and to provide Departmental financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

**2.00 Accomplishment of the Project:**

**2.10 General Requirements:** The Agency shall commence, and complete the project as described in Exhibit "A" attached hereto and by this reference made a part hereof this Agreement, with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws.

**2.20 Pursuant to Federal, State, and Local Law:** In the event that any election, referendum, approval, permit, notice, or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder, or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

**2.30 Funds of the Agency:** The Agency shall initiate and prosecute to completion all proceedings necessary including federal aid requirements to enable the Agency to provide the necessary funds for completion of the project.

**2.40 Submission of Proceedings, Contracts and Other Documents:** The Agency shall submit to the Department such data, reports, records, contracts and other documents relating to the project as the Department may require as listed in Exhibit "C" attached hereto and by this reference made a part hereof. The Department has the option to require an activity report on a quarterly basis. The activity report will include details of the progress of the project towards completion.

**3.00 Project Cost**: The total estimated cost of the project is $ $369,238 . This amount is based upon the estimate summarized in Exhibit "B" attached hereto and by this reference made a part hereof this Agreement. The Agency agrees to bear all expenses in excess of the total estimated cost of the project and any deficits involved.

**4.00 Department Participation:** The Department agrees to maximum participation, including contingencies, in the project in the amount of $ $276,928 as detailed in Exhibit "B", or in an amount equal to the percentage(s) of total cost shown in Exhibit "B", whichever is less.

**4.10 Project Cost Eligibility :** Project costs eligible for State participation will be allowed only from the effective date of this agreement. It is understood that State participation in eligible project costs is subject to:

(a) Legislative approval of the Department's appropriation request in the adopted work program year that the project is scheduled to be committed;

(b) Availability of funds as stated in Section 15.00 of this Agreement; Approval of all plans, specifications, contracts or other obligating documents as required by the Department, and all other terms of this Agreement;

(c) Department approval of costs in excess of the approved funding or attributable to actions which have not received the required approval of the Department and all other terms of this Agreement;

(d) Department approval of the project scope and budget (Exhibits A & B) at the time appropriation authority becomes available.

**4.20 Front End Funding :** Front end funding ☐ is ☒ is not applicable. If applicable, the Department may initially pay 100% of the total allowable incurred project costs up to an amount equal to its total share of participation as shown in paragraph 4.00.

**5.00 Project Budget and Payment Provisions:**

**5.10 The Project Budget:** A project budget shall be prepared by the Agency and approved by the Department. The Agency shall maintain said budget, carry out the project and shall incur obligations against project funds only in conformity with the latest approved budget for the project. No budget increase or decrease shall be effective unless it complies with fund participation requirements established in Section 4.00 of this Agreement, or Amendment thereto, and is approved by the Department Comptroller.

**5.20 Payment Provisions:** Unless otherwise allowed, payment will begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Payment will be made for actual costs incurred as of the date the invoice is submitted with the final payment due upon receipt of a final invoice.

**6.00 Accounting Records:**

**6.10 Establishment and Maintenance of Accounting Records:** The Agency shall establish for the project, in conformity with requirements established by Department's program guidelines/procedures and "Principles for State and Local Governments", separate accounts to be maintained within its existing accounting system or establish independent accounts. Such accounts are referred to herein collectively as the "project account". Records of costs incurred under terms of this Agreement shall be maintained in the project account and made available upon request to the Department at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all sub-consultants performing work on the Project and all other records of the Agency and sub-consultants considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the five (5) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

**6.30 Costs Incurred for the Project:** The Agency shall charge to the project account all eligible costs of the project. Costs in excess of the latest approved budget or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

**6.40 Documentation of Project Costs:** All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges.

**6.50 Checks, Orders, and Vouchers:** Any check or order drawn by the Agency with respect to any item which is or will be chargeable against the project account will be drawn only in accordance with a properly signed voucher then on file in the office of the Agency stating in proper detail the purpose for which such check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified, readily accessible, and, to the extent feasible, kept separate and apart from all other such documents.

**6.60 Audit Authority:** In addition to the requirements below, the Agency agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, Florida's Chief Financial Officer or Auditor General. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued, and shall allow the Department access to such records and working papers upon request. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official.

The Agency shall comply with all audit and audit reporting requirements as specified in Exhibit "D" attached hereto and by this reference made a part hereof this Agreement.

**6.61 Monitoring:** In addition to reviews of audits conducted in accordance with OMB Circular A-133 as revised and Section 215.97, Florida Statutes, (see "Audits" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133 as revised, and/or other procedures. The Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the Agency is appropriate, the Agency agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by FDOT's Office of Inspector General (OIG) and Florida's Chief Financial Officer (CFO) or Auditor General.

**6.62 Audits:**

**Part I Federally Funded:** If the Agency is a state, local government, or non-profit organizations as defined in OMB Circular A-133 and a recipient of federal funds, the following annual audit criteria will apply:

1. In the event that the recipient expends $500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit "D" to this agreement indicates Federal resources awarded through the Department by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.

2. In connection with the audit requirements addressed in Part I, Paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133.

3. If the recipient expends less than the amount in Part I, Paragraph 1., an audit conducted in accordance with the provisions of OMB Circular A-133, is not required. If the recipient elects to conduct such an audit, the cost of the audit must be paid from resources obtained from other than Federal entities.

4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

**Part II State Funded:** If the Agency is a non-state entity as defined by Section 215.97(2)(m), Florida Statutes, and a recipient of state funds, the following annual audit criteria will apply:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of $500,000 in any fiscal year, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "D" to this agreement indicates state financial assistance awarded through the Department by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, Paragraph 1., the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than the amount in Part II, Paragraph 1., such audit is not required. If the recipient elects to conduct such an audit, the cost of the audit must be paid from the recipient's resources obtained from non-state entities.

4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

**Part III Other Audit Requirements**

1. The Agency shall follow-up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

2. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the Department, the Department Comptroller, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

**Part IV Report Submission**

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133 as revised, and required by Section 7.62 Part I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133 as revised, by or on behalf of the recipient directly to each of the following:

   A. The Department at each of the following addresses:
   Florida Department of Transportation ATTN: Dianne Peek
   719 S. Woodland Blvd.
   Deland, FL 32720

   B. The number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133 as revised, submitted to the following address:
   Federal Audit Clearinghouse
   Bureau of the Census
   1201 East 10th Street
   Jeffersonville, IN 47132

   C Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133 as revised.

2. In the event that a copy of the reporting package for an audit required by Section 7.62 Part I of this Agreement and conducted in accordance with OMB Circular A-133 as revised is not required to be submitted to the Department for reasons pursuant to section .320 (e)(2), OMB Circular A-133 as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited schedule of expenditures of Federal awards directly to each of the following:

   Florida Department of Transportation ATTN: Dianne Peek
   719 S. Woodland Blvd.
   Deland, FL 32720

   In addition, pursuant to Section .320 (f), OMB Circular A-133 as revised, the recipient shall submit a copy of the reporting package described in Section .320 (c), OMB Circular A-133 as revised, and any management letters issued by the auditor, to the Department at each of the following addresses:

   Florida Department of Transportation ATTN: Dianne Peek
   719 S. Woodland Blvd.
   Deland, FL 32720

3. Copies of financial reporting packages required by Section 7.62 Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:

   A. The Department at each of the following addresses:
   Florida Department of Transportation ATTN: Dianne Peek
   719 S. Woodland Blvd.
   Deland, FL 32720

   B. The Auditor General's Office at the following address:

   Office of Comptroller, MS 24
   605 Suwannee Street
   Tallahassee, Florida 32399-0405

4. Copies of reports or the management letter required by Section 7.62 Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:

   A. The Department at each of the following addresses:

   Florida Department of Transportation ATTN: Dianne Peek
   719 S. Woodland Blvd.
   Deland, FL 32720

5. Any reports, management letter, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133 as revised, Section 215.97, Florida Statutes, and Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133 as revised or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

**6.63 Record Retention:** The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least five years from the date the audit report is issued, and shall allow the Department, or its designee, the CFO or Auditor General access to such records upon request. The Agency shall ensure that the independent audit working papers are made available to the Department, or its designee, the CFO, or Auditor General upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the Department.

**6.64 Other Requirements:** If an audit discloses any significant audit findings related to any award, including material noncompliance with individual project compliance requirements or reportable conditions in internal controls of the Agency, the Agency shall submit as part of the audit package to the Department a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary. The Agency shall take timely and appropriate corrective action to any audit findings, recommendations, and corrective action plans.

**6.65 Insurance:** Execution of this Joint Participation Agreement constitutes a certification that the Agency has and will maintain the ability to repair or replace any project equipment or facilities in the event of loss or damage due to any accident or casualty for the useful life of such equipment or facilities. In the event of the loss of such equipment or facilities, the Agency shall either replace the equipment or facilities or reimburse the Department to the extent of its interest in the lost equipment or facility. The Department may waive or modify this section as appropriate.

**7.00 Requisitions and Payments:**

**7.10 Action by the Agency:** In order to obtain any Department funds, the Agency shall file with the Department of Transportation, District Five Public Transportation Office 133 S. Semoran Blvd., Orlando , FL, 32807 its requisition on a form or forms prescribed by the Department, and any other data pertaining to the project account (as defined in Paragraph 6.10 hereof) to justify and support the payment requisitions.

**7.11** The Agency shall provide the following quantifiable, measurable and verifiable units of deliverables as established in Exhibit "A". Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion.

**7.12** Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof, based on the quantifiable, measurable and verifiable units of deliverables as established in Exhibit "A". Deliverables must be received and accepted in writing by the Department's Project Manager prior to payments.

**7.13** Supporting documentation must establish that the deliverables were received and accepted in writing by the Department and that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Section 2.00 and Exhibit "A" has been met.

**7.14** Invoices for any travel expenses by the Agency shall be submitted in accordance with Chapter 112.061, F.S., and shall be submitted on the Department's ***Travel Form No. 300-000-01***. The Department may establish rates lower than the maximum provided in Chapter 112.061, F.S.

**7.15** For real property acquired, submit;

(a) the date the Agency acquired the real property,
(b) a statement by the Agency certifying that the Agency has acquired said real property, and actual consideration paid for real property.
(c) a statement by the Agency certifying that the appraisal and acquisition of the real property together with any attendant relocation of occupants was accomplished in compliance with all federal laws, rules and procedures required by any federal oversight agency and with all state laws, rules and procedures that may apply to the Agency acquiring the real property.

**7.20 The Department's Obligations:** Subject to other provisions hereof, the Department will honor such requisitions in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment on the project if:

**7.21 Misrepresentation:** The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

**7.22 Litigation:** There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement, or payments to the project;

**7.23 Approval by Department:** The Agency shall have taken any action pertaining to the project which, under this agreement, requires the approval of the Department or has made related expenditures or incurred related obligations without having been advised by the Department that same are approved;

**7.24 Conflict of Interests:** There has been any violation of the conflict of interest provisions contained herein;

**7.25 Default:** The Agency has been determined by the Department to be in default under any of the provisions of the Agreement; or

**7.26 Federal Participation (If Applicable):** Any federal agency providing federal financial assistance to the project suspends or terminates federal financial assistance to the project. In the event of suspension or termination of federal financial assistance, the Agency will reimburse the Department for all disallowed costs, including any and all federal financial assistance as detailed in Exhibit "B."

**7.30 Disallowed Costs:** In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement, after the expiration date of this Agreement, costs which are not provided for in the latest approved scope and budget for the project, costs attributable to goods or services received under a contract or other arrangements which have not been approved by the Department, and costs invoiced prior to receipt of annual notification of fund availability.

**7.40 Payment Offset:** If, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this agreement, the Department may offset such amount from payments due for work or services done under any public transportation joint participation agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting amounts shall not be considered a breach of contract by the Department.

**8.00 Termination or Suspension of Project:**

**8.10 Termination or Suspension Generally:** If the Agency abandons or, before completion, finally discontinues the project; or if, by reason of any of the events or conditions set forth in Sections 7.21 to 7.26 inclusive, or for any other reason, the commencement, prosecution, or timely completion of the project by the Agency is rendered improbable, infeasible, impossible, or illegal, the Department will, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or the Department may terminate any or all of its obligations under this Agreement.

**8.11 Action Subsequent to Notice of Termination or Suspension.** Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (1) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to the minimum the costs upon the basis of which the financing is to be computed; (2) furnish a statement of the project activities and contracts, and other undertakings the cost of which are otherwise includable as project costs; and (3) remit to the Department such portion of the financing and any advance payment previously received as is determined by the Department to be due under the provisions of the Agreement. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and budget as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and budget within a reasonable time. The approval of a remittance by the Agency or the closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

**8.12** The Department reserves the right to unilaterally cancel this Agreement for refusal by the contractor or Agency to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S. and made or received in conjunction with this Agreement.

**9.00 Audit and Inspection:** The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives to inspect all work, materials, payrolls, records; and to audit the books, records and accounts pertaining to the financing and development of the project.

**10.00 Contracts of the Agency:**

**10.10 Third Party Agreements:** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant, purchase of commodities contracts or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department as provided in Section 7.23. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the project, the Department must exercise the right to third party contract review.

**10.20 Procurement of Personal Property and Services:**

**10.21 Compliance with Consultants' Competitive Negotiation Act**: It is understood and agreed by the parties hereto that participation by the Department in a project with an Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency complying in full with provisions of Chapter 287.055, F.S., Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the Consultant Selection Process for all contracts. In all cases, the Agency's Attorney shall certify to the Department that selection has been accomplished in compliance with Chapter 287.055, F.S., the Consultants' Competitive Negotiation Act.

**10.22 Procurement of Commodities or Contractual Services:** It is understood and agreed by the parties hereto that participation by the Department in a project with an Agency, where said project involves the purchase of commodities or contractual services or the purchasing of capital equipment or the constructing and equipping of facilities, which includes engineering, design, and/or construction activities, where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Chapter 287.017 F.S., is contingent on the Agency complying in full with the provisions of Chapter 287.057 F.S. The Agency's Attorney shall certify to the Department that the purchase of commodities or contractual services has been accomplished in compliance with Chapter 287.057 F.S. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in Exhibit "B", or that is not consistent with the project description and scope of services contained in Exhibit "A" must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department as provided in Section 7.23.

**10.30 Disadvantaged Business Enterprise (DBE) Policy:**

**10.31 DBE Policy:** The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*)

**10.40** The Agency agrees to report any reasonable cause notice of noncompliance based on 49 CFR Part 26 filed under this section to the Department within 30 days of receipt by the Agency.

**11.00 Restrictions, Prohibitions, Controls, and Labor Provisions:**

**11.10 Equal Employment Opportunity:** In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin. The Agency will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development or operation of the project, except contracts for standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

**11.20 Title VI - Civil Rights Act of 1964:** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et. seq.), the Regulations of the Federal Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

**11.30 Title VIII - Civil Rights Act of 1968:** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VIII of the Civil Rights Act of 1968, 42 USC 3601,et seq., which among other things, prohibits discrimination in employment on the basis of race, color, national origin, creed, sex, and age.

**11.40 Americans with Disabilities Act of 1990 (ADA):** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by the ADA (42 U.S.C. 12102, et. seq.), the regulations of the federal government issued thereunder, and the assurance by the Agency pursuant thereto.

**11.50 Prohibited Interests:** The Agency shall not enter into a contract or arrangement in connection with the project or any property included or planned to be included in the project, with any officer, director or employee of the Agency, or any business entity of which the officer, director or employee or the officer's, director's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer, director or employee or the officer's, director's or employee's spouse or child, or any combination of them, has a material interest.

"Material Interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity.

The Agency shall not enter into any contract or arrangement in connection with the project or any property included or planned to be included in the project, with any person or entity who was represented before the Agency by any person who at any time during the immediately preceding two years was an officer, director or employee of the Agency.

The provisions of this subsection shall not be applicable to any agreement between the Agency and its fiscal depositories, any agreement for utility services the rates for which are fixed or controlled by the government, or any agreement between the Agency and an agency of state government.

**11.60 Interest of Members of, or Delegates to, Congress:** No member or delegate to the Congress of the United States, or the State of Florida legislature, shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

**12.00 Miscellaneous Provisions:**

**12.10 Environmental Regulations:** Execution of this Joint Participation Agreement constitutes a certification by theAgency that the project will be carried out in conformance with all applicable environmental regulations including the securing of any applicable permits. The Agency will be solely responsible for any liability in the event of non-compliance with applicable environmental regulations, including the securing of any applicable permits, and will reimburse the Department for any loss incurred in connection therewith.

**12.20 Department Not Obligated to Third Parties:** The Department shall not be obligated or liable hereunder to any party other than the Agency.

**12.30 When Rights and Remedies Not Waived:** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist, on the part of the Agency, and the making of such payment by the Department while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

**12.40 How Agreement Is Affected by Provisions Being Held Invalid:** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

**12.50 Bonus or Commission:** By execution of the Agreement the Agency represents that it has not paid and, also, agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

**12.60 State or Territorial Law:** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable State law: Provided, that if any of the provisions of the Agreement violate any applicable State law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

**12.70 Use and Maintenance of Project Facilities and Equipment:** The Agency agrees that the project facilities and equipment will be used by the Agency to provide or support public transportation for the period of the useful life of such facilities and equipment as determined in accordance with general accounting principles and approved by the Department. The Agency further agrees to maintain the project facilities and equipment in good working order for the useful life of said facilities or equipment.

**12.71 Property Records:** The Agency agrees to maintain property records, conduct physical inventories and develop control systems as required by 49 CFR Part 18, when applicable.

**12.80 Disposal of Project Facilities or Equipment:** If the Agency disposes of any project facility or equipment during its useful life for any purpose except its replacement with like facility or equipment for public transportation use, the Agency will comply with the terms of 49 CFR Part 18 relating to property management standards. The Agency agrees to remit to the Department a proportional amount of the proceeds from the disposal of the facility or equipment. Said proportional amount shall be determined on the basis of the ratio of the Department financing of the facility or equipment as provided in this Agreement.

**12.90 Contractual Indemnity:** To the extent provided by law, the Agency shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Agency, its agents, or employees, during the performance of the Agreement, except that neither the Agency, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by the Agency in the performance of services required under this Agreement, the Department will immediately forward the claim to the Agency. The Agency and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the Agency in the defense of the claim or to require that the Agency defend the Department in such claim as described in this section. The Department's failure to promptly notify the Agency of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Agency. The Department and the Agency will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all expenses at trial.

**13.00 Plans and Specifications:** In the event that this Agreement involves the purchasing of capital equipment or the constructing and equipping of facilities, where plans and specifications have been developed, the Agency shall provide an Engineer's Certification that certifies project compliance as listed below, or in Exhibit "C" if applicable. For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer, hereinafter collectively referred to as "plans", the Agency will certify that:

a. All plans comply with federal, state, and professional standards as well as minimum standards established by the Department as applicable;

b. The plans were developed in accordance with sound engineering and design principles, and with generally accepted professional standards;

c. The plans are consistent with the intent of the project as defined in Exhibits "A" and "B" of this Agreement as well as the Scope of Services; and

d. The plans comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

Notwithstanding the provisions of this paragraph, the Agency, upon request by the Department, shall provide plans and specifications to the Department for review and approvals.

**14.00 Project Completion, Agency Certification:** The Agency will certify in writing on or attached to the final invoice, that the project was completed in accordance with applicable plans and specifications, is in place on the Agency facility, that adequate title is in the Agency and that the project is accepted by the Agency as suitable for the intended purpose.

**15.00 Appropriation of Funds:**

**15.10** The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

**15.20 Multi-Year Commitment:** In the event this Agreement is in excess of $25,000 and has a term for a period of more than one year, the provisions of Chapter 339.135(6)(a), F.S., are hereby incorporated: "(a) The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of 25,000 dollars and which have a term for a period of more than 1 year."

**16.00 Expiration of Agreement:** The Agency agrees to complete the project on or before March 31, 2015. If the Agency does not complete the project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the District Director of Transportation Development. Expiration of this Agreement will be considered termination of the project and the procedure established in Section 8.00 of this Agreement shall be initiated.

**16.10 Final Invoice:** The Agency must submit the final invoice on this project to the Department within 120 days after the expiration of this Agreement.

**17.00 Agreement Format:** All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

**18.00 Execution of Agreement:** This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

**19.00 Restrictions on Lobbying:**

**19.10 Federal:** The Agency agrees that no federal appropriated funds have been paid or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Joint Participation Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this section be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

**19.20 State:** No funds received pursuant to this contract may be expended for lobbying the Legislature or a state agency.

**20.00 Vendors Rights:** Vendors (in this document identified as Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

If a payment is not available within 40 days after receipt of the invoice and receipt, inspection and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), F.S. will be due and payable, in addition to the invoice amount to the Agency. The interest penalty provision applies after a 35 day time period to health care providers, as defined by rule. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices which have to be returned to an Agency because of vendor preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at (850) 413-5516 or by calling the Division of Consumer Services at 1-877-693-5236.

**21.00 Public Entity Crime:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S. for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

**22.00 Discrimination:** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

**23.00 E-Verify:**

Vendors/Contractors:

1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor/Contractor during the term of the contract; and

2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

IN WITNESS WHEREOF, the parties hereto have caused these presents be executed, the day and year first above written.

AGENCY

City of Lake Mary
AGENCY NAME

SIGNATORY (PRINTED OR TYPED)

SIGNATURE

TITLE

FDOT

DEPARTMENT OF TRANSPORTATION

District Director of Transportation Development
TITLE

LEGAL REVIEW
DEPARTMENT OF TRANSPORTATION

See attached Encumbrance Form for date of Funding Approval by Comptroller

Financial No. 412994-3-52-04
Contract No. _____

# EXHIBIT "A"

## PROJECT DESCRIPTION AND RESPONSIBILITIES

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida Department of Transportation and City of Lake Mary, 100 N. Country Club Rd., Lake Mary, FL 32795 dated _____.

**PROJECT LOCATION:** City of Lake Mary
100 N. Country Club Rd.
Lake Mary, FL 32795

John Omana
Community Development Director

**PROJECT DESCRIPTION:**

To provide FTA grant funding to enable the City of Lake Mary to provide additional connectivity to safely guide pedestrians to and from the SunRail Station. Improvements will include:

Pedestrian Connectivity System:

1. Add a 6' wide sidewalk located on the west side of N. Palmetto Street adjacent to the SunRail property.
2. Add a new 6' wide sidewalk, 1000 feet in length, between the southwest corner of the SunRail platform and the intersection of N. Country Club Rd and E. Lakeview Ave.
3. Provide a crosswalk at the northern segment of the N. Country Club Rd. and Lakeview Ave. intersection. To ensure maximum safety, Rectangular Rapid Flashing Beacons (RRFB) are proposed to be mounted to the crosswalk signs.

Entry Feature:

Purchase and install an Entry Sign at N. Palmetto St. and W. Lake Mary Blvd.

Traffic Signal:

In order to provide intermodal connections to the area, Lynx has a bus drop-off point abutting the SunRail platform. This has created a major connectivity challenge at the intersection of N. Palmetto St. and W. Lake Mary Blvd. due to the lack of a traffic signal at that intersection. Lynx has proposed to make a series of left turns through the Downtown Core area in order to arrive at the traffic signal at N. Country Club Rd. and W. Lake Mary Blvd. This type of flow is unacceptable to the City due to proposed traffic circles at N. Country Club Rd. and stacking

issues that occur at peak times. Lynx has informed the City that without a traffic signal, they will be unable to safely maneuver through the N. Palmetto St. and W. Lake Mary Blvd. intersection. The City of Lake Mary will add a traffic signal at the intersection of N. Palmetto St. and W. Lake Mary Blvd. This is the preferred route of the Lynx buses, therefore the installation of a signal will help achieve that goal. The signal will improve bus, pedestrian and vehicular safety, improve connectivity, as well as development opportunities.

## SPECIAL CONSIDERATIONS BY AGENCY:

The audit report(s) required in paragraph 6.60 of the Agreement shall include a schedule of project assistance that will reflect the Department's contract number, Financial Management Number and the Federal Identification number, where applicable, and the amount of state funding action (receipt and disbursement of funds) and any federal or local funding action and the funding action from any other source with respect to the project.

## SPECIAL CONSIDERATIONS BY DEPARTMENT:

N/A

Financial No. 412994-3-52-04
Contract No. _____

# EXHIBIT "B"
# PROJECT BUDGET

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and City of Lake Mary, 100 N. Country Club Rd., P.O. Box 958445, Lake Mary, FL 32795 dated _____.

I. PROJECT COST:

**Pedestrian Connectivity System:**
Add a 6' wide sidewalk located on the west side of N. Palmetto Street.
Add a 6' wide sidewalk, 1000 feet in length
Provide a crosswalk at the northern segment of the N. Country Club Rd. and Lakeview Ave. intersection

| | |
|---|---|
| Pedestrian Connectivity System | $144,238.00 |

**Entry Feature:**
Purchase and install an Entry Sign

| | |
|---|---|
| Entry Sign | $25,000.00 |

**Traffic Signal:**
Traffic signal

| | |
|---|---|
| Traffic Signal | $200,000.00 |
| **TOTAL PROJECT COST** | **$369,238.00** |

II. PARTICIPATION:

| | | |
|---|---|---|
| Maximum Federal Participation | | |
| FTA, FAA | ( %)or | $ |
| Agency Participation | | |
| In-Kind | ( %) | $ |
| Cash | ( 20%) | $ 92,310.00 |
| Other | ( %) | $ |
| Maximum Department Participation, Primary | | |
| (DS)(DDR)(DIM)(PORT) | ( %) or | $ |
| Federal Reimbursable (~~DU)(FRA~~)(DFTA) | ( 80%) or | $ 276,928.00 |
| Local Reimbursable (DL) | ( %) or | $ |
| **TOTAL PROJECT COST** | | **$ 369,238.00** |

Financial No. 412994-3-52-04
Contract No. _____

# EXHIBIT "C"
# (GENERAL)

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida Department of Transportation and the City of Lake Mary, 100 N. Country Club Rd., P.O. Box 958445, Lake Mary, FL 32795, dated _____,

referenced by the above Financial Project Number.

This Agreement is in conformance with Chapter 341.053, Florida Statutes.

The Agency shall comply with applicable Federal laws and regulations, including but not limited to, Federal Transit Administration (FTA) laws at 49 USC Chapter 53, FTA regulations and other Federal laws and regulations that contain requirements applicable to FTA recipients and the FTA assisted procurements. These laws and regulations include, but are not limited to:

a. FTA Circular 4220.1F Third Party Contracting Guidance, and as revised from time to time.
b. Buy America regulations as set forth in 49 USC 5323(j) and in 49 CFR Part 661, and any amendments thereto; and
c. The Agency shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Department and FTA, as they may be amended or promulgated from time to time during the term of this contract. Failure to so comply shall constitute a material breach of this contract.
d. The Agency must maintain control over the real property and the facility constructed. Additionally, the Agency must keep the facilities and the property in good operating order. An effective maintenance plan shall be established and adhered to by Agency. Said plan shall include the goals and objectives of the maintenance program so as to assure that the facilities are fit for their intended purpose and that they are safe and secure.

Financial No. 412994-3-52-04
Contract No. _____

# EXHIBIT "D"

**Federal Resources Awarded to the Recipient Pursuant To This Agreement Consist Of The Following:**

**Federal Agency:** Federal Transit Administration, Department of Transportation

**Authorization:** 49 U.S.C. 5309

**CFDA #: 20.500** Federal Transit Capital Investment Grants

**Amount: $ 276,928**

**Compliance Requirement:**

**Allowed Activities**:
Funds may be used to assist State and local governmental authorities in financing: capital projects for new fixed guideway systems, and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock for the systems, and the acquisition of rights of way, and relocation, for fixed guideway corridor development for projects in the advanced stages of alternatives analysis or preliminary engineering; capital projects, the acquisition, construction, reconstruction and improvement of facilities and equipment for use by operation or lease or otherwise in mass transportation service, including property and improvements needed for an efficient and coordinated mass transportation system, including buses and bus facility equipment; the capital costs of coordinating transit with other transportation; and the introduction of new technology, through innovative and improved transportation; and the introduction of new technology, through innovative and improved products. Consideration may also be given for projects which enhance urban economic development; establish new or enhanced coordination between transit and other transportation; or enhance the effectiveness of a transit project and are related physically or functionally to that transit project. It could also include financing for transit projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities; for the development of corridors to support fixed guideway systems, including protecting rights of way through acquisition, construction of dedicated bus and high occupancy vehicle lanes and park-and-ride lots, and other nonvehicular capital improvements that the Secretary may decide would result in increased transit usage in the corridor.

**Eligibility:**
Applicant Eligibility
Public agencies, including States; municipalities and other subdivisions of States; public agencies and instrumentalities of one or more States; and public corporations, boards, and commissions established under State law. Applicant must have legal, financial, and technical capacity to carry out proposed project, including safety and security aspects, and maintain facilities and equipment purchased with Federal assistance. Fixed Guideway formula funds are apportioned by formula to urbanized areas over 200,000 population with fixed guideway segments at least one mile long that are over seven years old. Bus and New Starts programs are allocated entirely to projects designated by Congress. Private non-profit organizations are not eligible direct recipients.

Beneficiary Eligibility
The general public, both users and non-users of public transportation. Public agencies, although private transportation companies may participate through contractual arrangements with public agency grantee.

**Compliance Requirements Applicable To The Federal Resources Awarded Pursuant To This Agreement Are As Follows:**
The recipient of Formula Grants for Federal Transit Capital Investment Grant funding must comply with the statutory requirements in 341.053 Florida Statutes, 49 USC 5309, and guidance of FTA Circular 9300.1B.

RESOLUTION NO. 931

# *MEMORANDUM*

DATE: February 6, 2014

TO: City Commission

VIA: Jackie Sova, City Manager

FROM: John Omana, Community Development Director
Stephen Noto, Senior Planner

SUBJECT: Resolution No. 931 - Adopting Amendment #2 to a Local Funding Agreement with Florida Department of Transportation for enhancements to the SunRail Station to rescind Resolution No. 927 which provided for Amendment #1 (John Omana, Community Development Director and Stephen Noto, Senior Planner)

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**BACKGROUND:** In December 2013, the City Commission approved Resolution No. 927, entering into a Local Funding Agreement (LFA) Amendment with FDOT for obligation of SunRail Enhancement Funds. Upon approval, FDOT staff informed the City that due to the technicalities involved in acquiring the enhancement funds, a Joint Participation Agreement (JPA) would be the more appropriate legal framework to use in lieu of the LFA Amendment.

Since the Amendment was approved by the City, and FDOT, it has been found that an additional amendment is required in order to rescind the December 2013 Amendment. The JPA will be the active document, and the LFA Amendment will be rescinded.

**DISPOSITION:** Staff recommends approval of Resolution No. 931.

**ATTACHMENTS:**

- Resolution No. 931

# RESOLUTION NO. 931

**A RESOLUTION OF THE CITY OF LAKE MARY, FLORIDA, TO RESCIND AN AMENDMENT TO A LOCAL FUNDING AGREEMENT ENTERED INTO BETWEEN THE CITY OF LAKE MARY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION REGARDING ENHANCEMENTS TO THE CITY OF LAKE MARY SUNRAIL STATION LOCATED NEAR THE INTERSECTION OF LAKE MARY BOULEVARD AND PALMETTO STREET; AUTHORIZING EXECUTION OF EFFECTING DOCUMENTS AND PROVIDING EFFECTIVE DATE.**

**WHEREAS,** the Florida Department of Transportation (FDOT) and the City of Lake Mary (City) have entered into a Local Funding Agreement to provide enhancements to the City's SunRail Station; and

**WHEREAS,** on December 19, 2013, the City approved Locally Funded Agreement Supplemental Amendment Number 1 (Amendment 1), which required the City to provide a 20% match for the cost of additional SunRail Station enhancements in the amount of $92,310; and

**WHEREAS,** after the funding was approved and submitted, FDOT determined that due to unanticipated technicalities, a different funding mechanism would be required in the form of a Joint Participation Agreement; and

**WHEREAS,** as a result, FDOT has requested that Supplement Amendment Number 2 (Amendment; Attachment "A") be adopted by the City to rescind Amendment 1; and

**WHEREAS,** it is the intent of the City to enter into the proposed Amendment.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Mayor and City Commission of the City of Lake Mary, Florida:

Section 1 The Mayor of the City of Lake Mary, be and he is hereby authorized and directed to execute the proposed Amendment, attached as Attachment "A".

Section 2 EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 6th day of February, 2014.

CITY OF LAKE MARY, FLORIDA

_____
MAYOR, DAVID J. MEALOR

ATTEST:

_____
CITY CLERK, CAROL A. FOSTER

Approved as to form and legality for use and reliance upon by the City of Lake Mary, Florida.

_____
CATHERINE D. REISCHMANN, CITY ATTORNEY

ATTACHMENT "A"

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

**LOCALLY FUNDED AGREEMENT**
**SUPPLEMENTAL AMENDMENT NUMBER 2**

**EXECUTION DATE:_____**

| | | |
|---|---|---|
| **Agency: City of Lake Mary**<br>**Vendor No.: F591484975** | **Fund: LF**<br>**Lake Mary Funds:**<br>**$107,525.00** | **Financial Management Number:**<br>**412994-3-52-04** |

The terms of the Supplemental Amendment Number 1 Locally Funded Agreement, executed on **January 15, 2014**, are hereby amended as follows:

It is no longer in the best interest of either party to proceed with the portion of the project outlined in the Scope of Services contained in Supplemental Amendment Number 1. Supplemental Amendment No. 1 is hereby rescinded and therefore the City will be refunded their local match in the amount of $92,310.

Except as hereby modified, amended or changed, all of the terms and conditions of said original Agreement thereto will remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents be executed, the day and year first above written.

**CITY OF LAKE MARY, FLORIDA**
**By: Board of City Commissioners**

By:_____
Name: David J. Mealor
Title: Mayor

Attest:
Clerk of the City of Lake Mary, Florida

_____
Carol A. Foster, City Clerk

**STATE OF FLORIDA**
**DEPARTMENT OF TRANSPORTATION**

By:_____
Name: Frank O'Dea
Title: Director of Transportation Development

Attest:

_____
Executive Secretary (Seal)

Legal Review:

RESOLUTION NO. 931

**RESOLUTION NO. 929**

# *MEMORANDUM*

DATE: February 6, 2014

TO: Mayor and City Commission

THRU: Jackie Sova, City Manager

FROM: Dianne Holloway, Finance Director

RE: Resolution No. 929 - Opposition of State of Florida Uniform Chart of Accounts Mandate

---

**Background:** The 2011 State of Florida (State) Legislation passed Senate Bill 1292 requiring that a mechanism be provided for obtaining detailed, uniform reporting of government financial information to promote accountability and transparency in the use of public funds. The State Chief Financial Officer (CFO) was required to propose a Draft Uniform Chart of Accounts (UCOA) to establish uniform reporting requirements for ***all*** units of government that include state agencies, local governments, educational entities and entities of higher education. The CFO was also tasked with identifying the estimated statewide cost impact for the UCOA adoption and implementation.

The Florida League of Cities has formally issued a statement opposing the implementation of Senate Bill 1292, mandating the use of a uniform chart of accounts for governmental agencies. This legislation in its current form is also opposed by the Florida Government Finance Officers Association (FGFOA). Additionally the FGFOA has prepared a white paper (attached) outlining the reasons why this particular plan is not a reasonable solution on many levels and would mandate a process that will require significant resources and onerous costs to government's and ultimately taxpayers.

As presented, this UCOA mandate requires monthly reporting in addition to the current annual reporting requirement. The monthly reporting would also not mandate uniformity in areas such as the basis of accounting which does not provide for meaningful comparisons among governmental entities. It does not require the monthly reporting to be audited or reconciled to the comprehensive annual financial report. Therefore this unfunded mandate will not provide useful relevant information.

The Department of Financial Service (DFS) engaged KMPG to determine the statewide cost impact of a UCOA adoption and implementation, which required the collection and validation of cost estimates from governmental agencies. The report which was released last week summarizes the cost impact as follows:

| | Local Governments | Education Entities | State of Florida | Total |
|---|---|---|---|---|
| Recurring Annual Costs | $ 50,812,530 | $ 9,156,521 | $ 72,515 | $ 60,041,566 |
| | | | | |
| One Time Transition | $ 36,134,206 | $ 36,354,541 | $ 80,560 | $ 72,569,307 |

We have reviewed the proposed legislation and evaluated what we believe the overall impact to the City to be. We did participate in the State's cost estimate survey. This project would require a significant use of internal staff time, outside resources and technology costs. We estimate that it will cost over $125,000 in one time transition costs and would need to add at least one additional position to meet the monthly reporting requirements.

We fully support initiatives for increased accountability and transparency and believe we do a good job providing financial information to our community. Currently we post our proposed budget, adopted budget, budget amendments, the annual comprehensive audits and the monthly budget snapshot to the City's website. We also file an Annual Financial Report (AFR) with the State. All AFR's are compiled within the State's database and used by the City's independent auditor during the annual audit to develop annual financial indicators and benchmark results to other governmental agencies with similar populations and property value.

**Recommendation:** The City Commission approve Resolution No. 929 opposing legislation that would mandate the use of a Uniform Chart of Accounts for all governmental entities to report financial information.

# RESOLUTION NO. 929

**A RESOLUTION OF THE CITY OF LAKE MARY, FLORIDA, URGING MEMBERS OF THE FLORIDA LEGISLATURE TO OPPOSE LEGISLATION THAT WOULD MANDATE THE USE OF A UNIFORM CHART OF ACCOUNTS FOR ALL GOVERMENTAL ENTITIES TO REPORT FINACIAL INFORMATION.**

**WHEREAS**, in 2011 the Florida Legislature passed and the Governor signed Senate Bill 1292 requiring the Chief Financial Officer to recommend uniform chart of accounts for reporting financial information for all state agencies, local governments, educational entities, and entities of higher education; and

**WHEREAS**, each entity of the state and local government is different, serves a different purpose and uses a different basis of accounting; and

**WHEREAS**, the purpose of the Chart of Accounts Project is to develop a uniform chart of accounts to be used by all governmental entities for reporting assets, liabilities, equities, revenues and expenditures; and

**WHEREAS**, the draft uniform chart of accounts will impact over 2,350 governmental entities; and

**WHEREAS**, each of the impacted entities are currently accountable to the electorate, citizens and users of their services; and

**WHEREAS**, Florida governments are required to meet many reporting requirements, both at the state and federal level, including reporting to the Florida Department of Financial Services, Florida Equal Employment Opportunity, Florida Unemployment Compensation, Florida Retirement System, Federal Affordable Care Act, and payroll taxes and W-2 information to the Internal Revenue Service.

**WHEREAS**, the monthly reporting may be prepared on a basis of accounting that may differ from the basis of accounting used to prepare the year-end audited financial statements and that the monthly information will not be validated; and

**WHEREAS**, the new level of detail required at the object level for monthly reporting is far greater than the level of detail reported either in the audited financial statements or in the Annual Financial Report required pursuant to the provisions of Section 218.32(1)(a), Florida Statutes; and

**WHEREAS**, there will be no attempt to validate any of the data before it is posted for public viewing and this results in a high risk that the data will be inaccurate, invalid or incomplete; and

**WHEREAS**, the establishment of a uniform chart of accounts without requiring uniformity in other areas such as in the basis of accounting and in the accounting treatment of various transactions in itself will not provide users with any meaningful comparisons between organizations; and

**WHEREAS**, regardless of the approach taken to implement the provisions of Section 215.89, Florida Statutes, significant resources will be required to achieve the goals of the chief financial officer; and

**WHEREAS**, the cost of implementing the Uniform Chart of Accounts far exceeds any benefit that taxpayers may accrue; and

**WHEREAS**, we believe that transparency and accountability of the use of public funds to citizens and other stakeholders is paramount but that it must be done while simultaneously limiting the burden to the entities and preserving the autonomy of each entity of government.

**WHEREAS**, we believe that legislation should be enacted that prescribes minimum desired transparency reporting by local governments, leaving it to the local governments to include such information on their web sites, and that such legislation should not impose significant financial burdens on local governments.

**IT IS HEREBY ENACTED BY THE CITY OF LAKE MARY AS FOLLOWS:**

**Section 1.** That the City Commission of the City of Lake Mary urges members of the Florida Legislature to oppose legislation that would mandate the use of a uniform chart of accounts for all governmental entities to report financial information.

**Section 2**. That a copy of this resolution be sent to Senator David Simmons and Representatives Jason Brodeur and Mike Clelland.

PASSED AND ADOPTED this 6th day of February, 2014.

CITY OF LAKE MARY, FLORIDA

_____
MAYOR, DAVID J. MEALOR

ATTEST: _____
CITY CLERK, CAROL A. FOSTER

Florida Government Finance Officers Association (FGFOA)

# Uniform Chart of Accounts White Paper

**October 14, 2013**

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**Post Office Box 10270 Tallahassee, Florida 32302-2270**
**Phone (850) 222–9684 Fax (850) 222–3806**
**www.fgfoa.org**
**Contact: jgarner@flcities.com**

## EXECUTIVE SUMMARY

As government finance professionals and elected officials responsible for managing government funds, the Florida Government Finance Officers Association (FGFOA) believes transparency and accountability of the use of public funds to citizens and other stakeholders is paramount to good government.

In 2011, legislation was passed requiring the chief financial officer to develop a uniform chart of accounts to be used by all governmental entities for the purpose of reporting assets, liabilities, equities, revenues and expenditures.

The FGFOA has several serious concerns regarding the proposed Uniform Charts of Accounts (UCOA) and reporting requirements. This white paper delineates FGFOA concerns in an effort to assist Florida Chief Financial Officer Jeff Atwater and the members of the Florida Legislature as they move forward with their continued work on providing accountability and transparency of public funds.

In summary, the proposed UCOA and reporting requirements is problematic, as follows:

- **Clarification of reporting responsibility** – it is unclear whether the county constitutional officers or the chief financial officer of the county should report financial information to the State of Florida. In addition to the extra "layer" in the reporting hierarchy at the county, the proposed UCOA monthly reporting requirement will also place an undue burden on chief financial officers.

- **Double reporting of expenditures for counties** – if constitutional officers report and the county reports, the expenditures would be reported twice. These reports will not be reconciled on a monthly basis due to cost and time constraints.

- **Conflicts with current required monthly reporting requirements** – schools districts, county clerks, and other local governments may prepare monthly reports. For such entities, the proposed UCOA monthly reporting will result in duplicate reporting and additional costs.

- **Quality of data provided to the public will be jeopardized without time for verification** – the basis of accounting used to prepare monthly ad-hoc reporting may differ from the year end audited financial statements. The information may not be validated, resulting in compromised data that does not provide meaningful comparisons between organizations.

- **High costs of implementation –** the level of detail required to comply with the proposed UCOA is far greater than that required in the current financial reports. Significant resources will be necessary to comply with modifying the current accounting systems, creating a crosswalk from the current systems to the proposed UCOA, and ongoing reporting. This is an unfunded mandate on local governments.

Implementation of the proposed UCOA and reporting requirements would be costly to governments, and ultimately the taxpayers, and will result in the delivery of inaccurate and confusing information.

The FGFOA recommends an alternative strategy that could accomplish the Legislature's goal to ensure transparency and accountability while limiting the burden to governmental entities and preserving the autonomy of those entities. Legislation should be enacted that prescribes minimum desired transparency reporting by local governments, leaves it to local governments to include such information on their websites, and does not impose significant financial burdens on local governments.

## INTRODUCTION

During the 2011 Florida legislative session, Section 215.89, Florida Statutes, was created. The legislative intent, as stated in the provisions of Section 2011-44, Laws of Florida, is as follows:

> 1) That a mechanism be provided for obtaining detailed, uniform reporting of government financial information to enable citizens to view compatible information on the use of public funds by governmental entities;
>
> 2) That uniform reporting requirements be developed specifically to promote accountability and transparency in the use of public funds; and
>
> 3) In order to accommodate the different financial management systems currently in use, separate charts of account may be used as long as the financial information is captured and reported consistently and is compatible with any reporting entity.

The Legislature delegated the responsibility and authority for implementing the provisions of Section 215.89, Florida Statutes, to the state's Chief Financial Officer (CFO). The state CFO has proposed a Uniform Chart of Accounts (UCOA) and reporting requirements. This white paper summarizes the issues related to the proposed UCOA reporting requirements and concerns of local government finance professionals in an effort to assist state CFO Jeff Atwater in his efforts to implement the requirements of Section 215.89, Florida Statutes.

As government finance professionals and/or elected officials accorded the responsibility of managing government funds, we acknowledge that accountability and transparency of the use of public funds by our entities is first and foremost with respect to our training and our actions. In these challenging financial times, perhaps now more than ever, transparency and accountability are essential to good government.

Various sections of the Florida statutes provide for the creation, operation and enumerated powers for counties, municipalities, school boards and special districts. The statutes also empower many of these entities to levy and collect taxes and, to the extent not inconsistent with general or special law, grant several powers for each entity to self-govern. Clearly, the intent of the Legislature has been, to the extent possible, to allow these entities the ability to govern themselves. It is also clear that the Legislature has established parameters to ensure these entities provide financial and legal accountability to its citizens. In addition, Section 11.45, Florida Statutes, requires these entities to periodically provide for a financial audit. These financial audits must be conducted in accordance with auditing standards generally accepted in the United States and government auditing standards and, when applicable, in accordance with the Florida Single Audit Act and the Federal Single Audit Act Amendments of 1996.

## AUTONOMY OF LOCAL GOVERNMENT AND EDUCATIONAL ENTITIES

### COUNTIES

In many counties in Florida, voters elect independent constitutional officers who are a "check and balance" on the board of county commissioners. These constitutional officers are independently elected and are accountable to the citizens within their county. They include the clerk of the circuit court and comptroller (clerk), property appraiser, sheriff, supervisor of elections and tax collector. The framers of the Florida Constitution intentionally made these countywide officers separate and independent from the rest of county government to ensure that the entity that decides how to spend your tax dollars (board of county commissioners) is not the same entity that pays the county bills, invests its funds, audits its own procedures and transactions (clerk); assesses your property's taxable values (property appraiser); collects your taxes (tax collector); protects its citizens (sheriff); or oversees the election process (supervisor of elections). These offices, audited annually by Public Accounting Firms as a part of the overall county audit, follow strict constitutional and statutory guidelines. They cannot set public policy or levy taxes as only the board of county commissioners have that authority.

The Clerk and Comptroller's Office, established in 1838 by the Florida Constitution as an independently elected officer, is charged with safeguarding public records, public assets and public funds.

### MUNICIPALITIES

In accordance with Section 2, Article VIII, of the Florida Constitution, municipalities are established or abolished and their charters amended pursuant to general or special law. When any municipality is abolished, provision shall be made for the protection of its creditors. Municipalities also have governmental, corporate and proprietary home rule powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. Each municipal legislative body shall be elective. They also have authority to set public policy for and levy taxes on their citizenry. All municipalities with gross revenues in excess of $100,000 per year are audited by Public Accounting Firms annually.

### SCHOOL DISTRICTS

School districts and their governing boards were created pursuant to Section 4, Article IX of the Florida Constitution. These districts are an independent taxing and reporting entity managed, controlled, operated, administered and supervised by district school officials in accordance with Chapter 1001, Part II, Florida Statutes. The boards consist of elected officials responsible for the adoption of policies, which govern the operation of the district's public schools. The superintendent is responsible for the administration and management of the schools within applicable parameters of state laws, state Board of Education rules and school board policies. School districts must maintain financial records and accounts as prescribed by State Board of Education rules. Financial audits of school districts are performed annually by either Public Accounting Firms or the State Auditor General depending upon County size.

### STATE UNIVERSITIES

There are 12 state universities that comprise the state university system, which was created pursuant to Section 7(b), Article IX of the Florida Constitution. Pursuant to Section 7(c), Article IX of the Florida Constitution, each state university is administered by a board of trustees. Each state university board of trustees has all the powers of a body corporate. The university president serves as the executive officer and the corporate secretary of the board of trustees and is responsible for the operation and administration of the university within applicable parameters of state laws, Florida Board of Governors regulations, and board policies. State universities must maintain financial records and accounts as

prescribed by Florida Board of Governors regulations. Financial audits of state universities are performed annually by the State Auditor General.

STATE COLLEGES

There are 28 state colleges that comprise the Florida College System, which was created pursuant to Section 1001.60, Florida Statutes. Each state college board of trustees has all the powers of a body corporate. The college president serves as the executive officer and the corporate secretary of the board of trustees and is responsible for the operation and administration of the college within applicable parameters of state laws, State Board of Education rules, and board policies. State colleges must maintain financial records and accounts as prescribed by State Board of Education rules. Financial audits of state colleges are performed annually by the State Auditor General.

SPECIAL DISTRICTS

Also especially popular in Florida, special districts are local units of special-purpose governments whereby the governing board has policy-making powers. They also operate within limited boundaries and are created by general law, special act, local ordinance or by rule of the governor and Cabinet. Special districts ensure accountability of public resources since special districts are held to the same high standards as municipalities and counties. The first special districts were created almost 190 years ago. Although special districts are very similar to counties and municipalities, special districts are local units of special-purpose government as opposed to local units of general-purpose government. Florida's laws generally treat them alike regarding accountability of public resources.

Special districts exist to serve a public purpose and must be held to certain minimum standards of accountability to keep the public, appropriate local general-purpose governments, and state agencies informed of their status and activities. Special Districts are generally audited annually by Public Accounting Firms.

SUMMARY

It is important to note that each of the above types of government is accountable to the electorate, citizens and users with whom they interact. As indicated above, pursuant to Section 11.45, Florida Statutes, these entities are subject to periodic financial audits by independent certified public accountants. Along with complying with state, local and federal laws, accountability to those directly affected by actions of these local governments should be and is the highest level of accountability one can expect.

**1. Constitutional Officer Self-Reporting**

As set forth in the provisions of Section 215.89(2)(c), Florida Statutes, "local government" means a municipality, county, water management district, special district or any other entity created by a local government. Inasmuch as this definition seems to exclude county constitutional officers from its operation (since they were created by Article VIIII, Section 1(d) of the Florida Constitution), much debate has occurred in the local government finance community.

County constitutional officers typically operate independently of the county (primary) government from a financial management perspective. While county constitutional officers are reported as a part of the primary government (as that term is defined under generally accepted accounting principles) in the primary government's financial statements, historically, county constitutional officers have provided financial information to the county as a part of the "year-end closeout process" at the level of detail necessary for preparation of financial statements.

Clarification is needed on whether the county constitutional officers will be responsible for independently reporting their financial information to the State of Florida, or does the state intend to place a conduit reporting responsibility on the chief financial officer of the county (be it the clerk or other duly created charter officer). In addition to adding an extra "layer" in the reporting hierarchy, the proposed UCOA monthly reporting requirement for revenues and expenditures will also place an undue burden on the county chief financial officers.

**2. Double Reporting of Expenditures**

As noted above, historically, county constitutional officers have provided financial information to the county as part of the "year-end closeout process" at the level of detail necessary for preparation of the financial statements. That information is then utilized by the chief financial officer of the county to prepare "eliminating entries" on the county's financial statements so that financial transactions between county constitutional officers are not "double counted." If monthly reporting of revenues and expenditures is implemented by the state CFO, there will presumably be no opportunity to prepare "eliminating entries" on a monthly basis due to both cost and time constraints. There is a risk that both revenues and expenditures will be "double counted." This will occur if, for instance, the board of county commissioners reports a transfer out to a constitutional officer (as an expenditure), and that particular constitutional officer also reports his/her expenditures by individual line items.

**3. Conflicts with, or Duplicates, Current Required Monthly Reporting Requirements**

Pursuant to State Board of Education (SBE) Rule 6A-1.008, school district finance departments are currently required to provide monthly financial statements to the school board in a form prescribed by the school board. The proposed UCOA monthly reporting requirement for revenues and expenditures adds an additional monthly reporting requirement for school districts. Depending on the school board determined format of the monthly financial statements, it is possible that the process for preparing the proposed UCOA monthly revenue and expenditure reports may differ and have its own unique set of processes. Therefore, this creates a duplication of reporting efforts resulting in additional unnecessary work by school district finance department staff. In practice, this same conflict would be applicable to counties, municipalities, and special districts that have requirements to prepare monthly reports that differ from the proposed UCOA monthly reporting requirement.

Another example is the monthly reporting requirements for the clerks. They are required to report the court-related revenues and expenditures in summary form monthly to the Clerks of Court Operations Corporation (CCOC). In addition, they are required to report in detail such things as case counts by court type; accomplished results toward performance requirements in the areas including but not limited to collection of court fees, fines and service charges, new case openings and docketing of case specific filings or motions; jury statistics; foreclosure case statistics and soon an enhanced assessments and collections report. The proposed UCOA monthly revenue and expenditure reports would be a duplication of reporting, resulting in additional unnecessary work by clerk staff.

## MONTHLY REPORTING UNRECONCILABLE TO ANNUAL REPORTING

One of the key fundamental issues in this initiative is that the monthly ad-hoc reporting may be prepared on a basis of accounting that may differ from the basis of accounting used to prepare the year-end audited financial statements and that the monthly ad-hoc information will not be "validated." In our view, there are at least two potential issues with monthly ad-hoc reporting of revenues and expenditures as proposed:

1. Auditors will be unable to "reconcile" the monthly revenues and expenditures to the audited financial statements since they will conceivably be presented on different "basis of accounting"; and

2. The value of the information to the state and to potential users accessing the state's reporting system will be 561-324-4272

561-324-4272

compromised because the data is "unfiltered." Basically, what the state would be saying by posting these unaudited numbers is, "here are some numbers for you to review but we will not give you any assurance that they are correct."

## QUALITY AND COMPARABILITY OF DATA

When providing data to the public, every effort should be made to ensure that the data is accurate and reliable. However, UCOA project reporting provisions ensure that just the opposite will occur; there will be no attempt to validate any of the data before it is posted for public viewing. This results in a high risk that the data will be inaccurate, invalid or incomplete. Reasons for this can include anything from innocent mistakes, such as misclassification of expenditures or improper cutoff, to the intentional misstatement of amounts being reported. Another issue that will have to be overcome is that government financial system users have a tendency to expense funds where the budget is located. Because it is impractical to budget at the same low level of detail as proposed for reporting by the UCOA project, it will be a challenge to make sure that expenditures are posted to the correct cost objects. This will result in either the establishment of more costly internal controls to ensure that expenditures are properly coded or, more likely in a time of scarce resources, it will result in no additional controls being established, thus increasing the risk that the data will be unreliable.

Additionally, because there will be no validation of the data submitted to the state, the information presented must be disclaimed as unaudited and tell the user of the information that the state is taking no responsibility for the data that they are disseminating. Responsibility and accountability go hand in hand, and this lack of taking responsibility for the integrity of the data by the state is counterproductive to the goal of promoting transparency and accountability. In fact, it perpetuates one of the most negative stereotypes that governments have to overcome, which is the lack of taking responsibility and for holding people accountable. Further, transparency, while a worthy goal, is only valuable when the public perceives that it can get a true picture of what is going on. We question how this proposed data dump of information on the public will promote any positive perception of government.

Another goal of the project is to promote comparability across government organizations. While creating a uniform chart of accounts is a necessary component of comparability, unless all organizations use the same basis of accounting, a chart of accounts in and of itself will not result in the goal of achieving comparability across all government agencies.

There are vast differences between the various bases of accounting. Take, for example, the purchase of a fixed asset. Both the cash basis and the modified accrual bases of accounting recognize the purchase of fixed assets as expenditures. However, even though the transaction represents an expenditure under both bases, comparability may still be compromised as a result of the timing of the recognition of that expenditure. The cash basis of accounting recognizes the expenditure when the cash is disbursed versus the modified accrual basis of accounting recognizing the expenditure when it is incurred. Adding to the confusion, the purchase of a fixed asset using full accrual accounting isn't an expense at all; instead, it is recorded on the balance sheet with the purchase price being depreciated over the useful life of the asset. As this example illustrates, the differences in the bases of accounting between organizations severely impacts comparability between reporting organizations.

Further, organizations using the same basis of accounting are allowed to establish policies that could impair comparability between organizations. For example, GAAP allows an organization using the full accrual basis of accounting to choose its own threshold for capitalization of certain classes of assets. Let's assume that the threshold of capitalizing capital assets for one government is $100,000 and the threshold for another government is $1 million (as per the State of Florida). For a capital asset costing $90,000, both organizations would reflect the transactions as an expense. For a capital asset costing $500,000, the first organization would capitalize the cost and amortize it over time, while the second organization would expense the entire amount in the year of acquisition. Therefore, there are obstacles to comparability even between entities using the same basis of accounting.

In addition, the Florida Department of Financial Services has indicated that it will be left up to each county to decide if they will report collectively with their constitutional officers or whether the constitutional officers will report separately.

Comparability will be compromised with this position. If some counties report their information separate from their constitutional officers and some counties report collectively, then there will be no way to compare the board of county commissioners' information across the spectrum; tax collectors across the spectrum; and the same for the rest of the Constitutionals.

Therefore, the establishment of a uniform chart of accounts without requiring uniformity in other areas such as in the basis of accounting and in the accounting treatment of various transactions in itself will not provide users with any meaningful comparisons between organizations.

## COST OF IMPLEMENTATION

It is unclear as of this date whether the proposed UCOA is intended to replace the 2011 Uniform Accounting System Manuals for Cities, Counties, and Other Reporting Entities (all of which are dated as of August 9, 2010) or whether the proposed UCOA is intended to operate as an "overlay" to those manuals. The answer to that question will have a significant impact to units of state and local government, both operationally as well as from a cost perspective.

As noted elsewhere in this document, there is also the issue of monthly reporting versus year-end reporting and the challenges presented both by the frequency of reporting as well as the reconciliation (or lack thereof) of the monthly information to the year-end data.

It is our expectation that since the year-end reporting will presumably be prepared in conformity with generally accepted accounting principles and therefore be "reconcilable" with the local government's audited financial statements, the issues with the year-end reporting will generally be limited to the following three major categories:

1. The level of detail required for certain objects of expenditures (i.e. contractual services and travel expenses) is far greater than the level of detail previously reported either in the audited financial statements or in the Annual Financial Report (AFR) required pursuant to the provisions of Section 218.32(1)(a), Florida Statutes;

2. Similar to item 1, it is our understanding that units of state and local government will now be required to report information at a much higher level of detail for each individual fund. In the past, information reported in the AFR was reported by fund type and information in the "basic financial statements" produced by units of government for the purpose of annual audit were only segregated by fund for the "major fund" (as that term is defined in GASB Statement Number 34 *Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments*) with all "non-major" funds combined into one column for financial reporting purposes. While many units of government participate in the Government Finance Officers Association's "Certificate of Achievement for Excellence in Financial Reporting" Program, which requires the presentation of combining and individual fund level financial statements and schedules, participation in the program is voluntary. In any event, the opinions expressed by external auditors on the fairness of presentation of the financial statements generally only extend to the basic financial statements and not to the individual fund level financial statements (with the exception of the "major" funds). The cost for local governments to obtain an opinion on the fairness of presentation of financial information at the fund level would be significant; and

3. If the implementation of Chapter 2011-44, Laws of Florida, is intended to create an "overlay" as discussed above, units of local government will need to determine the capabilities of their current financial management software applications to create such an "overlay." In any event, this exercise is also expected to be costly.

Similar to year-end reporting requirements, it appears there are also three ways to implement the monthly reporting requirement:

1. Modify the entity's current accounting system;

2. Develop a "crosswalk" from the entity's current system to the proposed UCOA, or

3. A combination of (1) and (2).

The survey of the Cost of Implementation that the Florida Department of Financial Services has undertaken is not complete as of the writing of this white paper, nor are the results available. However, there are key points to consider regarding the Cost of Implementation.

**IMPLEMENTATION:**

In our view, regardless of the approach taken to implement the provisions of Section 215.89, Florida Statutes, significant resources will be required to comply with the proposed UCOA reporting requirements.

**MODIFYING CURRENT ACCOUNTING SYSTEMS:**

The first point to be made is that modifying the current accounting system to mirror the proposed UCOA will be labor intensive on the part of the entity's staff. Current accounting systems are set up to meet the needs of the individual entity's management and constituency. The UCOA concept with a goal of transparency does not focus on the individual particular needs of their constituencies. Modifications to mirror the UCOA will put financial burdens on entities and their staffs who are already burdened by budget cuts and staff reductions.

A second point, as indicated in the section "UNCLEAR, CONFLICTING, OR DUPLICATIVE REPORTING REQUIREMENTS," is that some entities will perform double work to create the report required by other statutes, which will necessitate reporting on two different formats and entering data twice on a monthly basis, hence doubling the staff time and costs.

**CREATING A CROSSWALK FROM CURRENT SYSTEMS TO UCOA:**

Creating a crosswalk from current accounting systems to the UCOA will be costly for several reasons. First and foremost will be software costs. Programming current systems will require the particular vendor to provide programming services to accounting systems that are proprietary in nature and can only be reprogrammed by the vendors themselves. In today's world, programming rates on an hourly basis usually are in the range of $200 to $400 per hour. In addition, most systems would require additional software licensing fees and ongoing monthly maintenance support fees. Once the crosswalk is completed, there will still be the costs of staff time for preparation and reporting as previously expressed elsewhere in this white paper.

**ONGOING REPORTING:**

Currently, most entities report annually to Florida Department of Financial Services their AFR through a system known as LOGER. As noted above, the level of reporting for the AFR is at the fund-type level. More specifically, local governments currently report expenditures by fund type (i.e. general, special revenue, debt service, capital outlay, etc.), by function (i.e. 513.00-Financial and Administrative, 521.00- Law Enforcement, 541.00-Road and Street Facilities, etc.) and by major category (i.e. personal services, operating expenditures/expenses, capital outlay, debt service, grants and aids, and other uses). The average time to enter the information annually for a representative county is 1 1/2 to 2 days of staff time. This does not include the time it takes to assimilate the information from the accounting system into the format required for the AFR. It is our understanding that the state CFO will require units of local government to report to the individual fund level, by department and by object code. Reporting by object code versus category is a big issue. It is our estimation that the sheer volume of data to be reported at this expanded level (not to mention the cost of staff to create and verify the information) will grow by more than 100 times, and that is just for the year-end reporting. Interpolating this out on a monthly basis for revenue and expenditure reporting at the comprehensive level of detail requested by the Florida Department of Financial Services realistically could add substantially to this process. Making it a monthly routine will require another staff person. In addition, currently the AFR reporting requires only reporting of revenues and expenditures. The proposed UCOA requires reporting on balance sheet accounts as well, creating even more burden on staff.

Another consideration is the impact that monthly financial reporting will have on governmental computer systems and networks. Many governments have a substantial number of funds, some that exceed 100, which will be required to provide reporting. The monthly reporting will require substantial computer resources, which may result in many governments having to upgrade current systems at a substantial cost. The Summary of Reporting Requirements on this website http://www.myfloridacfo.com/aadir/CO/ACOAprojectdocuments/SummaryofReportingRequirments.pdf

indicates that reporting entities shall report revenues and expenditures at the lowest operational level of funds that is maintained by the reporting entities. If, for example, an entity maintains three separate special revenue funds for daily operational purposes, financial information would be reported for each of the three separate special revenue funds rather than a single summarized submission at the GAAFR level.

Some governments use multiple sub-funds to capture information that is rolled up into one fund for financial statement purposes. Monthly closing calculations could be costly and accuracy compromised.

In addition, Florida governments currently are required to meet many reporting requirements, including reporting to the Florida Equal Employment Opportunity, Florida Unemployment Compensation, Florida Retirement System, Federal Affordable Care Act, and payroll taxes and W-2 information to the Internal Revenue Service. Each of these reporting requirements imposes penalties for not meeting the prescribed deadlines. There is concern that additional monthly reporting requirements may result in governments not being able to meet all of these current reporting requirements in the time required, resulting in potential penalties and other ramifications.

## SUMMARY

Without reservation, we believe that transparency and accountability of the use of public funds to citizens and other stakeholders is paramount. We applaud the Legislature in its efforts to ensure that the citizens of Florida and of its local governments are beneficiaries of financial accountability and wise use of resources. The current proposed UCOA reporting requirements, while well intentioned, is not the solution for the reasons discussed in this white paper, including: the autonomy of state and local government entities; risk of lack of quality and incomparable data; conflicts with current established reporting requirements both annually and more frequently; different bases of accounting and different purposes for which each entity exists; and most crucial, the duplication of effort and the implementation cost to the taxpayer that places extraordinary burdens on local government entities with no resources to accommodate these burdens. In our opinion, the cost to implement the UCOA far exceeds any benefit that might accrue to the taxpayer as a result.

We recommend an alternative strategy that could accomplish the Legislature's goal to ensure transparency and accountability while limiting the burden to governmental entities and preserving the autonomy of those entities. Legislation should be enacted that prescribes minimum desired transparency reporting by local governments, leaves it to local governments to include such information on their websites, and does not impose significant financial burdens on local governments.

By taking the more local approach, information provided by each local government on its web site would be easily accessible to the local constituency and would be in the same place that the local government currently publishes its budget documents and year end audited financial statements. This would provide better context and an enhanced historical perspective for the user to interpret the interim information. Additionally, the interim financial information would likely come straight from the local government's current financial management system and not require costly conversions or overlays necessary to convert it to a one size fits all approach as currently proposed.

**Florida Government Finance Officers Association**
**Uniform Chart of Accounts Task Force**

**Chair**
Honorable Jeffrey R. Smith, CPA, CGFO, CGMA
Indian River County Clerk of Court & Comptroller
Past President of FGFOA

**Members:**
DeeDee Beaver, CPA, CGFO
Director of Finance & Accounting
Polk County Clerk of Court & Comptroller

Honorable Ken Burke, CPA
Pinellas County Clerk of Court & Comptroller

Desmond Chin, CPA
Director of Finance
Village of Palmetto Bay

Linda C. Davidson, CPA, CGFO, CPFO
Financial Services Director, City of Boca Raton
Past President of GFOA and FGFOA

Fred Dean, CPA
Director of Finance,
Pinellas County Clerk of Court & Comptroller

Diane Bernardo, CPA
Director of Finance
Indian River County Clerk of Court & Comptroller

Tony F. DeBlasio, CPA
Manager, Financial Reporting,
Palm Beach County Clerk of Court & Comptroller

Christian Flierl, CPA
Director, Accounting & Financial Services
South Florida Water Management District

Jill Freitas
Senior Accountant
Palm Beach County Clerk of Court & Comptroller

Rob Garner, CPA, CGFO
President, Government Consulting Services Corporation
Past President of FGFOA

Joseph Garofalo, Jr., CPA
Fiscal Director
Sarasota County Tax Collector

Paul A. Guzenski, CPA
Senior Accountant
Palm Beach County Clerk of Court & Comptroller

Ron Harring, CPFO, CGFO
Assistant Finance Director
City of Tarpon Springs

Amber Hughes
Legislative Liaison, Florida League of Cities

William Kleinsorge, CPA
Finance Director
County Finance Division
Sumter County Clerk of Court & Comptroller

Thomas P. Klinker, CPA, CGMA, CGFO, CPFO
Senior Finance Director
Lake County Sheriff's Office
Past President of FGFOA

Darlene Malaney, CIMA
Director of Financial Services
Palm Beach County Clerk of Court & Comptroller

Elissa Nagy, CPA
Assistant Finance Director
Indian River County Clerk of Court & Comptroller

Shannon Ramsey-Chessman, CPA, CGFO
Chief Operating Officer of Finance
Palm Beach County Clerk of Court & Comptroller
Current FGFOA Board Member

William V. Spinelli, CPA
Director of Finance
City of Leesburg

Patricia A. White, CPA
Accounting Manager
City of Boca Raton

Merrill Wimberley, CPA
Chief Financial Officer
Leon District Schools

# *MEMORANDUM*

DATE: February 6, 2014

TO: City Commission

VIA: Jackie Sova, City Manager

FROM: Bruce Paster, P.E., Director of Public Works

SUBJECT: Water Treatment Plant Degasifier Packing Replacement

---

**DISCUSSION:** In 2001 the City installed three packed tower degasifying vessels (air strippers) at the water treatment plant to treat well water affected by contamination found at the Siemens property on Rinehart Road. In 2005 the City entered into a Settlement Agreement with Siemens and Marconi Holdings to pay for the construction and operating costs of the air stripper treatment system.

The plastic media, also known as packing, inside each air stripper are cleaned periodically with an acid wash. Over time washing becomes less effective and eventually the media needs to be replaced. The media in air stripper unit #1 was replaced in January 2014 and it was noted that the media was in much worse condition than anticipated. It has now become apparent that the media in air strippers #2 and #3 need to be replaced as soon as possible.

Originally we budgeted the replacement of the packing of strippers #2 and #3 for FY 2015 and 2016 respectively. We are now requesting that monies be appropriated in the current fiscal year to accommodate the replacement of the media in strippers #2 and #3 in the amount of $151,700.

Attached is Resolution No. 930 amending the Fiscal Year 2013-2014 Budget to appropriate $151,700 from available fund balance to replace media strippers #2 and #3.

**RECOMMENDATION**: City Commission approve Resolution No. 930 amending the Fiscal Year 2013-2014 Budget and authorize the City Manager to execute a purchase order with Jacobs Air Water Systems (sole source vendor for the treatment system manufacturer) for the replacement of the packing in air stripper units #2 and #3 in an amount not to exceed $151,700.

RESOLUTION NO. 930

A RESOLUTION OF THE CITY OF LAKE MARY, FLORIDA, AMENDING THE FISCAL YEAR 2013-2014 BUDGET; PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of Lake Mary, Florida, finds it desirable, in order to properly reflect new information and changes made during the year, to amend the Budget for the City of Lake Mary for the Fiscal Year 2014, beginning October 1, 2013 as provided herein; and

WHEREAS, Ordinance No. 1496 adopting the City's budget for Fiscal Year 2014, provides for amendment by Resolution.

NOW, THEREFORE BE IT RESOLVED by the City Commission of the City of Lake Mary, Florida:

1. The following funds are revised as specified herein:

**Water & Sewer Fund**

| | | |
|---|---|---|
| **REVENUES:** | | |
| 401-0000-399-01-00 | Cash Balance Forward | $ 151,700 |
| **EXPENDITURES:** | | |
| 401-0431-600-14-10 | Capital Outlay | $ 151,700 |

2. That all ordinances or resolutions or parts of ordinances or resolutions in conflict herewith shall be and the same are hereby repealed.

3. This Resolution shall take effect immediately upon passage and adoption.

PASSED AND ADOPTED this 6th day of February, 2014.

CITY OF LAKE MARY, FLORIDA

_____
MAYOR, DAVID J. MEALOR

ATTEST:

_____
CITY CLERK, CAROL A. FOSTER

# City of Lake Mary, Florida
# Fiscal Year 2014 Operating Budget
# Water & Sewer Fund
# 401 Summary

| Description | 2014 Approved Budget | Current Amendment | 2014 Amended Budget |
|---|---|---|---|
| **Revenue:** | | | |
| Water Sales | $ 2,100,000 | $ - | $ 2,100,000 |
| New Installations | 8,500 | - | 8,500 |
| Turn-ons | 6,000 | - | 6,000 |
| Turn-offs | 6,000 | - | 6,000 |
| Penalty Income | 65,000 | - | 65,000 |
| Sewer Income | 1,850,000 | - | 1,850,000 |
| Reclaimed Water | 200,000 | - | 200,000 |
| Interest Earnings | 90,000 | - | 90,000 |
| Water Impact Fees | 40,400 | - | 40,400 |
| Sewer Impact Fees | 17,400 | - | 17,400 |
| Misc Revenues | 5,000 | - | 5,000 |
| Cash Balance Forward | 232,610 | - | 232,610 |
| Total Revenue | 4,620,910 | - | 4,620,910 |
| **Expenses:** | | | |
| Water Treatment | $ 590,325 | $ - | $ 590,325 |
| Water Dist. / WW Collection | 806,513 | - | 806,513 |
| Utility Billing | 184,346 | - | 184,346 |
| Capital Projects | 1,125,000 | 151,700 | 1,276,700 |
| Wholesale Reclaimed Water | 40,000 | - | 40,000 |
| Wholesale Sewer Treatment | 1,285,000 | - | 1,285,000 |
| Transfers out: | | | |
| To General Fund | 985,000 | - | 985,000 |
| To Health Insurance Fund | 42,000 | - | 42,000 |
| Total Expenses | 5,058,184 | 151,700 | 5,209,884 |
| **Increase (Decrease) in Balance** | (437,274) | (151,700) | (588,974) |
| Use of Carryforward Fund Balance | | $ 151,700 | |
| Amount Restricted for Capital Projects | 746,809 | | 746,809 |
| Unrestricted Net Assets Beginning of Year | 13,796,632 | | 13,796,632 |
| Unrestricted Net Assets End of Year | $ 14,106,167 | | $ 13,954,467 |

# *MEMORANDUM*

DATE: February 6, 2014

TO: City Commission

VIA: Jackie Sova, City Manager

FROM: Danielle Koury, P.E., Stormwater Engineer

SUBJECT: Revised Interlocal Agreement between Seminole County and the City for the Florida Yards & Neighborhoods Program

---

**DISCUSSION:** Changes were made by the County Attorney's office to the Interlocal Agreement for the Florida Yards & Neighborhoods Program, previously executed by the City on September 5, 2013.

Attached is the revised City of Lake Mary and Seminole County Interlocal Agreement for the Florida Yards & Neighborhoods Program along with a memo from the County Attorney's Office outlining the changes to the previously executed agreement. The primary reason for the revision is to remove the intended effective date of October 1, 2013 as that date has already passed.

**RECOMMENDATION:** City Commission authorize Mayor to execute the revised City of Lake Mary and Seminole County Interlocal Agreement for the Florida Yards & Neighborhoods Program.

# COUNTY ATTORNEY'S OFFICE
# MEMORANDUM

To: Kim Ornberg, Division Manager
Watershed Management Division/Public Works Department

From: David G. Shields, Assistant County Attorney DGS
Ext. 7254

Date: December 3, 2013

Subject: Interlocal Agreements for the Florida Yards and Neighborhoods (FYN)
List of Revisions

---

The FYN agreements were revised primarily to address the problem of them being executed after the intended October 1, 2013 effective date. As requested, the following is a list of the revisions:

- The preamble was revised to remove the date to avoid conflict with other date provisions in the agreement.
- The last whereas clause was added to clarify the intent for the term of the agreement to coincide with fiscal years.
- Section 2 was modified to make the city's payment due within 60 days following receipt of the County's invoice instead of by January 1 of each year of the agreement.
- Section 3(b) was revised to allow flexibility to the County in issuing the invoice to the City instead of each October, which has obviously already passed for the first year of the agreement.
- Section 6(b) was revised to incorporate the City of Winter Springs's requested revision to the indemnification provision into all of the agreements for consistency. The revision changes the word "activities" in the fourth line to "performance of its responsibilities set forth in this Agreement." This change is favorable to the cities by clarifying their indemnification obligation only extends to what arises or results from the agreement.
- Section 13 was revised and Section 15 was added to allow the agreement to be executed retroactively after its October 1, 2013 effective date.

Please call with questions.

DGS/dre
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**INTERLOCAL AGREEMENT BETWEEN**
**SEMINOLE COUNTY AND THE CITY OF LAKE MARY**
**FOR THE FLORIDA YARDS & NEIGHBORHOODS PROGRAM**

**THIS INTERLOCAL AGREEMENT**, hereinafter referred to as the "Agreement", is made and entered into by and between SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East 1st Street, Sanford, Florida 32771, hereinafter referred to as the "COUNTY" and CITY OF LAKE MARY, a Florida Municipal Corporation, whose address is 100 North Country Club Road, Lake Mary, Florida 32746, hereinafter referred to as the "CITY".

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

**WHEREAS**, COUNTY administers the Florida Yards and Neighborhoods Program (FYN) through the University of Florida/Institute of Food and Agricultural Sciences Cooperative Extension Service Office; and

**WHEREAS**, CITY has indicated its desire to continue to implement the FYN Program within the CITY, as identified in the attached Scope of Work, attached hereto as Exhibit A, (Scope); and

**WHEREAS**, in addition to the Scope the parties agree to share the cost of providing funding for the production and ongoing broadcast of FYN-related Public Service Announcements (PSAs), which will be broadcast on SGTV (Seminole Government Television) and local network stations; and

**WHEREAS**, the frequency, broadcast times and length of broadcasts on local network stations will be dependent on the number of local government and agency participants and cost shares for the PSAs are also being sought from other local governments and agencies in the Central Florida broadcast area; and

**WHEREAS**, in order to receive Florida Department of Environmental Protection (FDEP) pollutant load allocation credit (pollutant load reduction credit) for TMDL impaired waterbodies, FDEP is requiring a five (5) year commitment to the FYN Program and therefore, this Agreement is for a term of five (5) years, commencing on October 1, 2013 and ending on September 30, 2018 with provisions for renewal and termination thereafter; and

**WHEREAS**, the term of this Agreement is intended to coincide with the fiscal years of the parties commencing October 1, 2013,

**NOW, THEREFORE**, for and in consideration of the promises, mutual covenants and agreements contained herein by and between the parties and for the mutual benefit of COUNTY and CITY, and their respective citizens, the parties agree as follows:

**Section 1. Recitals**. The foregoing recitals are true and correct and form a material part of this Agreement upon which the parties have relied.

**Section 2. CITY Responsibilities**. As compensation for COUNTY's performance of the Scope, CITY shall pay COUNTY the sum of FOUR THOUSAND AND NO/100 DOLLARS ($4,000.00) per year for the FYN Program for a total of TWENTY THOUSAND AND NO/100 DOLLARS ($20,000.00) over the five (5) year term of this Agreement. Payment amounts in future terms of this Agreement are subject to the provisions of Sections 5, 13 and 14 below. CITY shall pay the annual amount to COUNTY within sixty (60) days following receipt of COUNTY's invoice.

**Section 3. COUNTY Responsibilities.**

(a) COUNTY shall provide a FYN coordinator to perform the Scope specified in Exhibit A.

(b) COUNTY shall invoice CITY in the amount of FOUR THOUSAND AND NO/100 DOLLARS ($4,000.00), subject to the adjustment specified in Section 5 below, during each year of the Agreement to allow CITY to make its annual payment timely pursuant to Section 2 of this Agreement.

(c) As presented and reviewed by the Stormwater Technical Coordination Group, on October 10, 2007, the services rendered to CITY by the FYN Coordinator and through the PSAs, will be in the form of educational instruction and implementation for nutrient source control in order to meet the regulatory requirements, goals, and objectives of the City's National Pollutant Discharge Elimination System Permit (NPDES) and associated Total Maximum Daily Loads (TMDL) regulatory compliance activities.

**Section 4. Insurance Requirements.** Each party shall maintain adequate insurance coverage to protect its own interests and obligations under this Agreement.

**Section 5. Adjustments in Payments.** COUNTY's Public Works Department Director is authorized to adjust the annual payment amount specified in Sections 2 and 3 above, upon each five-year renewal of this Agreement as specified in Section 13 below. Any change to the payment amount must be in writing and acknowledged by both CITY and COUNTY. If CITY does not wish to pay the new payment amount or does not have funds available for the new payment amount, CITY may terminate this Agreement as provided in Section 14 below.

**Section 6. Indemnification.**

(a) COUNTY expressly acknowledges and accepts its responsibility under applicable law, and to the extent permitted by law, agrees to indemnify, defend and hold CITY harmless for loss, damage, or injury to persons or property, arising out of or resulting from COUNTY's activities described in Section 3 above, unless, however, such claim or demand arises out of or

results from the negligence of CITY, its servants, agents, employees, or assigns. This provision is not to be construed as a waiver by COUNTY of its sovereign immunity, except to the extent waived pursuant to Section 768.28, Florida Statutes (2013), as the statute may be amended from time to time.

(b) CITY expressly acknowledges and accepts its responsibility under applicable law, and to the extent permitted by law, agrees to indemnify, defend and hold COUNTY harmless for loss, damage, or injury to persons or property, arising out of or resulting from CITY's performance of its responsibilities set forth in this Agreement, unless, however, such claim or demand arises out of or results from the negligence of COUNTY, its servants, agents, employees, or assigns. This provision is not to be construed as a waiver by CITY of its sovereign immunity, except to the extent waived pursuant to Section 768.28, Florida Statutes (2013), as the statute may be amended from time to time.

(c) The principles of comparative negligence apply to loss, damage or injury as specified in subsections (a) and (b) above where the negligence of both CITY and COUNTY and their respective servants, agents, employees or assigns are involved.

(d) The parties further agree that nothing contained herein will be construed or interpreted as denying to any party any remedy or defense available to such parties under the laws of the State of Florida, nor as a waiver of sovereign immunity of COUNTY and CITY beyond the waiver provided for in Section 768.28, Florida Statutes (2013), as the statute may be amended from time to time.

(e) The waiver of a provision in Section 4 by either party will not constitute the further waiver of this provision or the waiver of any other provision of this Section 6.

**Section 7.** **Notice**. Any notice delivered with respect to this Agreement must be in writing and be deemed to be delivered (whether or not actually received) when (i) hand delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United States Mail, postage prepaid, certified mail, return-receipt requested, addressed to the person at the address set forth opposite the party's name below, or such other address or to such other person as the party has specified by written notice to the other party delivered in accordance herewith:

**As to COUNTY:**

Outreach Coordinator
Public Works Department
Seminole County Services Building
1101 East 1st Street
Sanford, FL 32771

**As to CITY:**

Director
Public Works Department
100 North Country Club Road
Lake Mary, FL 32746

**Section 8.** **Governing Law**. The laws of the State of Florida govern the validity, enforcement and interpretation of this Agreement. Seminole County is the sole venue for any legal action in connection with this Agreement.

**Section 9.** **Parties Bound**. This Agreement is binding upon and inures to the benefit of CITY and COUNTY, and their successors and assigns.

**Section 10.** **Conflict of Interest**.

(a) Each party agrees that it shall not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with the other party or

which would violate or cause third parties to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.

(b) Each party hereby certifies that no officer, agent or employee of that party has any material interest (as defined as over 5% in Section 112.312(15), Florida Statutes (2013), as the statute may be amended from time to time,) either directly or indirectly, in the business of the other party to be conducted here, and that no such person will have any such interest at any time during the term of this Agreement.

(c) Pursuant to Section 216.347, Florida Statutes (2013), as this statute may be amended from time to time, the parties hereby agree that monies, if any, received from the other party pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any State or federal agency.

(d) Each party has the continuing duty to report to the other party any information that indicates a possible violation of this Section.

**Section 11. Entire Agreement.**

(a) It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements, negotiations, and previous agreements between the parties relating to the subject matter hereof.

(b) Any alterations, amendments, deletions, or waivers of the provisions of this Agreement will be valid only when expressed in writing and duly signed by both parties, except as otherwise specifically provided in this Agreement.

**Section 12. Severability.** If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, it is the intent of the parties that the invalidity does not affect other provisions or applications of this Agreement which can be given effect without the

invalid provision or application, and to this end the provisions of this Agreement are declared severable.

**Section 13. Term**. Notwithstanding the date of execution of this Agreement, the term of this Agreement is five (5) years commencing on October 1, 2013 and ending on September 30, 2018. This Agreement renews automatically for a successive five-year term at the end of the initial term and each succeeding five-year term unless terminated by COUNTY or CITY as provided in Section 14 below.

**Section 14. Termination.** COUNTY or CITY has the right to terminate this Agreement for convenience upon at least ninety (90) days prior, written notice to the other party (the "Early Termination Date"). Notwithstanding any such election to terminate, each party shall continue to pay all sums and perform all obligations on its part to be paid and performed hereunder for the period up to the Early Termination Date. Each party may continue to enforce against the other all rights and remedies relating to sums to be paid and obligations to be performed by the other for the period up to the Early Termination Date. Notwithstanding any such termination of this Agreement, each party will remain entitled to collect such sums and enforce such obligations as may relate to the period prior to the effective date of such termination.

**Section 15. Execution Date and Effective Date.** The Execution Date of this Agreement will be the date when the last party has properly executed this Agreement as determined by the date set forth immediately below the respective signatories of the parties. The Effective Date of this Agreement is retroactive to October 1, 2013, notwithstanding the Execution Date. Each party confirms the other is current in its obligations under this Agreement as of the Execution Date.

**IN WITNESS WHEREOF,** the parties hereto have made and executed this Agreement for the purposes stated herein.

ATTEST:

CITY OF LAKE MARY

_____
CAROL ANN FOSTER, City Clerk

By:_____
DAVID MEALOR, Mayor

Date:_____

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

_____
MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By:_____
ROBERT DALLARI, Chairman

Date:_____

For the use and reliance
Seminole County only.

As authorized for execution by the Board of County Commissioners at its _____, 20__, regular meeting.

Approved as to form and
legal sufficiency.

_____
County Attorney

DGS/dre
11/21/13
Attachment:
Exhibit A – Scope of Work
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**SCOPE OF WORK**
**CITY OF LAKE MARY**
**FLORIDA YARDS & NEIGHBORHOODS**
**PROGRAM COORDINATION**
**October 1, 2013 – September 30, 2018**

## Introduction

The Florida Yards & Neighborhoods (FYN) Program began as a partnership of the University of Florida/Institute of Food and Agricultural Sciences (UF/IFAS), Cooperative Extension Service, Florida's Water Management Districts, the Florida Department of Environmental Protection (FDEP), the National Estuary Program, the Florida Sea Grant College Program, along with municipality and county utilities, numerous other non-governmental agencies, members of private industry, and concerned citizens. FYN addresses the serious problems of pollution, water shortages and disappearing habitats by enlisting Floridians in the battle to save our natural resources. The program, which is implemented through the counties' UF/IFAS Cooperative Extension Service offices, provides environmental education and outreach activities in the community to help residents reduce stormwater runoff conserve water and enhance their community by improving home and landscape management. This integrated approach to landscaping emphasizes nine interrelated principles:

1. Right plant, right place
2. Water efficiently
3. Fertilize appropriately
4. Mulch correctly
5. Attract wildlife
6. Manage yard pests responsibly
7. Recycling
8. Reduce stormwater runoff
9. Protect the waterfront

FYN is a University of Florida/IFAS educational program and not a regulatory agency; however, the FDEP, the U.S. Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA) and local governments strongly support the program.

**Objectives**

The FYN coordinator shall administer the FYN Program in the City of Lake Mary from October 1, 2013, through September 30, 2018. The FYN coordinator will work with the City of Lake Mary staff and Seminole County Public Works Department Watershed Management Division to implement the FYN environmental education program.

The FYN Program in the City of Lake Mary will be an integrated Program Management between the Seminole County Public Works Department Watershed Management Division, University of Florida, Seminole County Extension Office and FYN Coordinator for Seminole County.

**Scope of Work**

- The FYN Coordinator shall implement the FYN Program in the City of Lake Mary and shall provide the City of Lake Mary with monthly reports and a final summary report at the end of each fiscal year to Danielle Koury, Stormwater Engineer, Public Works Department at dkoury@lakemaryfl.com or City of Lake Mary, 911 Wallace Court, Lake Mary, FL 32746. Specific tasks and deliverables covered by this agreement for the City of Lake Mary are presented below.

**Task Identification**

The coordinator shall perform the following tasks:

1. Coordinate FYN office activities in Seminole County and maintain an office presence for the program through personal participation. The office is located at the Seminole County Extension office.

2. FYN Coordinator will handle standard office duties, keeping contact records, maintain database of participants in FYN workshops, establish a FYN website, conduct mail-outs and compile survey responses and help with FYN presentations, coordinate events, publicity, reports, and invoices.

3. Assist the City of Lake Mary in meeting the goals and objectives of their National Pollutant Discharge Elimination System Permit (NPDES) & Total Maximum Daily Loads (TMDL's)

4. Help identify and work with appropriate City of Lake Mary staff, to establish partnerships with the business community, local governments, environmental agencies, civic and environmental organizations, and others.

5. Submit monthly progress reports by the fifth working day of the following month to Danielle Koury, Stormwater Engineer, Public Works Department at dkoury@lakemaryfl.com or City of Lake Mary, 911 Wallace Court, Lake Mary, FL 32746.

6. Submit a summary report at the end of the fiscal year that includes a final program assessment for all phases of the FYN Program to Danielle Koury, Stormwater Engineer, Public Works Department at dkoury@lakemaryfl.com or City of Lake Mary, 911 Wallace Court, Lake Mary, FL 32746. .

7. Submit information upon request for articles and program updates to be included in the City's publications and other approved publications and on the City's Web site and provide information for press releases a minimum of two weeks in advance.

8. Coordinate and conduct one (1) FYN related workshop within the City of Lake Mary.

9. Coordinate and conduct one (1) presentation at Homeowner Associations within the City of Lake Mary.

10. Conduct up to two (2) Countywide BMP (Best Management Practice) 6 hour Trainings. One will be in the fall and one in the spring.

11. Participate at one (1) event in the City that could promote FYN by utilizing a display, handing out brochures/handouts and talking to citizens.

12. Implement an education outreach plan for the new "Fertilizer Ordinance," which needs to be implemented by the end of 2013, per our NPDES Permit (posters, utility bill inserts, brochures).

13. Distribute FYN flyers and brochures at all FYN functions.

14. Provide all necessary documentation needed for the annual NPDES report (Park III.A.6) and create the necessary SOPs for the FYN Program required in the annual NPDES report.

15. Track and provide per event and year-end report on amount of attendance / participation and quantity of educational materials.

16. Provide all of the UF/IFAS FYN materials for FYN landscaping workshops, HOA meetings, and City Hall.

**Deliverables:** For the purposes of this contract, all due dates will be the 5th day of the following month unless otherwise stated.

| Description | Due Date |
|---|---|
| Submit monthly progress Reports | October, November, December, January, February, March, April, May, June, July, August & September |
| Submit an annual (end of each fiscal year) summary report | September |

**Budget - $4,000.00 annually – October 1, 2013 – September 30, 2018**

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# CITY MANAGER'S REPORT

DATE: February 6, 2014

TO: City Commission

FROM: Jackie Sova, City Manager

SUBJECT: City Manager's Report

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**ITEMS FOR COMMISSION ACTION:**

1. Potential for Advisory Board combination.
2. Computer purchases and surplus.

# *MEMORANDUM*

DATE: February 6, 2014

TO: City Commission

VIA: Jackie Sova, City Manager

FROM: John Omana, Community Development Director
Stephen Noto, Senior Planner

SUBJECT: Potential for Advisory Board Consolidation

---

**BACKGROUND:** The City Manager has directed staff to research the possibility of consolidating three of the City's advisory boards, the Board of Adjustment (BOA), Local Planning Agency (LPA), and Planning and Zoning Board (P&Z), into one Planning and Zoning Board.

Currently, the P&Z is the most active advisory board for the City. With the restructuring of the Department of Community Affairs into the Department of Economic Opportunity at the State level, and fewer land use amendments being processed, the need for LPA meetings has declined. The BOA meets on an as-needed basis, based on variance requests received from the public to Chapters 154.14, and 154.55-154.66. The last BOA meeting was November 2, 2011. The last LPA meeting was on January 16, 2013.

Upon receiving this directive, staff contacted neighboring local governments to compare governance structure. Below is a table outlining staff's findings ("X" denotes that board exists). In addition to the information below, staff found that the agencies that eliminated the BOA distributed the functions between staff, the remaining board(s), and the City Commission.

| Local Government | BOA | LPA | P&Z |
|---|---|---|---|
| Seminole County | X | | X |
| Altamonte Springs | | X | X |
| Casselberry | | | X |
| Longwood | X | X | |
| Oviedo | | | X |
| Sanford | | | X |
| Winter Springs | | | X |

Based on discussions with staff and the City Manager, the consensus is that the P&Z is capable of handling the additional duties of the BOA and LPA. This is due to their exposure to quasi-judicial development petitions such as site plans and rezoning's and their understanding of the City's land use patterns. In addition they review variances associated with site plans and understand the criteria required to obtain one.

As far as composition of the new board, two additional members can be placed on the P&Z: one new member from the BOA, and the other from the LPA. This would give the P&Z seven members, plus one alternate. The Code of Ordinances would also have to be modified to clarify the P&Z's additional duties and membership structure.

**DISPOSITION:** Staff seeks direction regarding the potential for consolidating the Planning and Zoning Board, Board of Adjustment, and Local Planning Agency, and increasing the total number of Planning and Zoning Board members from five to seven, plus an alternate.

# CITY MANAGER'S REPORT

DATE: February 6, 2014

TO: City Commission

FROM: Dianne Holloway, Finance Director

SUBJECT: Computer purchases and surplus

---

We are in the process of ordering computer replacements as budgeted for FY 14. We will purchase (17) desktops and fourteen (14) laptops. During this process we will shift some of the older computers to areas where the usage is less intense but the systems are still functioning well.

Computers being replaced are beyond or at the end of their useful lives and need to be surplused or scrapped. At this time we have 18 desktops, 16 laptops, 2 printers and 2 routers to be taken out of service. All of these computers are operating on Windows XP which is no longer being supported by Microsoft after April 2014.

**Recommendation:**

Request Commission authorize purchase of computer replacements through Dell in an amount not to exceed $35,500, declare thirty-eight (38) asset tag numbers below as surplus items, and authorize City Manager to dispose of same.

Surplus Item Asset Tag Numbers:

| | | | | | |
|---|---|---|---|---|---|
| 10674 | 10541 | 10770 | 10778 | 10678 | 10816 |
| 1286 | 10694 | 10771 | 10779 | 10681 | 10817 |
| 1501 | 10697 | 10772 | 1999 | 10684 | 10820 |
| 10322 | 10699 | 10774 | 2088 | 10755 | |
| 10341 | 10716 | 10775 | 2200 | 10765 | |
| 10444 | 10768 | 10776 | 10666 | 10806 | |
| 10486 | 10769 | 10777 | 10677 | 10808 | |

# ***MEMORANDUM***

DATE: February 6, 2014

TO: City Commission

FROM: Mayor David Mealor

SUBJECT: Election of Deputy Mayor

---

In accordance with Section 4.04 of the City's Charter, the City Commission, by a majority vote, shall elect from among its membership a Deputy Mayor. At the Strategic Planning Session held on February 3, 2004, it was the consensus of the Commission for the Mayor to nominate a Deputy Mayor for the Commission to vote on.

The Deputy Mayor shall serve as Mayor during the absence or disability of the Mayor. Additionally, if a vacancy in the office of Mayor occurs, the Deputy Mayor shall serve as Mayor until the next regular election, at which time a Mayor shall be elected to complete the original unexpired term. I have included a list of when previous Deputy Mayors were appointed.

RECOMMENDATION:

The Commission elect a Deputy Mayor.

| ELECTED DEPUTY MAYOR | NAME |
| --- | --- |
| 12/5/96 | Commissioner Duryea |
| 12/4/97 | Commissioner Brender |
| 11/19/98 | Former Mayor Greene |
| 11/4/99 | Former Mayor Greene |
| 11/16/00 | Former Commissioner Crump |
| 3/1/01 | Commissioner Brender |
| 12/5/01 | Former Commissioner McLean |
| 2/6/03 | Former Commissioner Jernigan |
| 2/5/04 | Former Commissioner McLean |
| 2/17/05 | Former Commissioner Jernigan |
| 1/19/06 | Former Commissioner McLean |
| 11/30/06 | Commissioner Duryea |
| 2/21/08 | Commissioner Brender |
| 2/19/09 | Commissioner Brender |
| 3/18/10 | Commissioner Brender |
| 12/6/12 | Commissioner Lucarelli |