



120 Malabar Road, SE - Palm Bay, FL 32907 (321-952-3400)
www.palmbayflorida.org

Mayor
WILLIAM CAPOTE

Deputy Mayor
TRES HOLTON

Councilmembers
HARRY SANTIAGO, JR.
JEFF BAILEY
BRIAN ANDERSON

AGENDA

REGULAR COUNCIL MEETING NO. 2018-18

THURSDAY

August 2, 2018 - 7:00 P.M.
City Hall Council Chambers

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

1. Two (2) vacancies on the Community Development Advisory Board (represents 'for-profit provider' and 'actively engage in home building' positions).++
2. One (1) vacancy on the Infrastructure Advisory and Oversight Board (represents 'at-large' position).+

AGENDA REVISIONS:

CONSENT AGENDA:

There will be no separate discussion on those items listed under Consent Agenda (indicated with asterisks(*)). They will be enacted by the City Council on one motion. If discussion is desired by the City Council, that item will be removed from the Consent Agenda by Council and will be considered in the order that it appears on the agenda.

PRESENTATIONS:

1. Conroy Jacobs, Traffic Engineer/Planner – St. Johns Heritage Parkway – update.
2. Aaron Pool, Code Compliance Manager – Private Property Parking Regulations – update.

ADOPTION OF MINUTES:

- * 1. Special Council Meeting No. 2018-12; May 24, 2018.
- * 2. Special Council Meeting No. 2018-13; May 29, 2018.

PUBLIC COMMENTS/RESPONSES: (Non-agenda Items Only)

Public comments will be heard by the City Council on non-agenda issues. Speakers must complete 'Public Comment Cards' (orange) and are limited to 3 minutes each.

THIS MEETING IS BROADCAST LIVE ON THE CITY'S WEBSITE AND
TELEVIEWED ON THE SPACE COAST GOVERNMENT TV CHANNEL.

PUBLIC HEARINGS:

1. Ordinance No. 2018-24, amending the Code of Ordinances, by creating a new chapter titled “Lobbying”, providing for the registration process of lobbyists, final reading. (Deputy Mayor Holton)
2. Ordinance No. 2018-28, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located in the vicinity south of Malabar Road and east of Cassia Avenue, from Commercial and Single Family Residential Uses to Multiple Family Residential and Commercial Uses (15.1 acres)(Case No. CP-9-2018, Rook at Palm Bay, LLC), first reading.
- ♣3. Ordinance No. 2018-29, rezoning property located in the vicinity south of Malabar Road and east of Cassia Avenue, from CC (Community Commercial District) to RM-20 (Multiple-Family Residential District) (15.1 acres)(Case No. CPZ-9-2018, Rook at Palm Bay, LLC), first reading.
4. Ordinance No. 2018-30, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located south of and adjacent to Gerry Road, and north of and adjacent to Melbourne-Tillman Water Control District Canal No. 18, from Recreation and Open Space Use to Single Family Residential Use (3.25 acres)(Case No. CP-10-2018, City of Palm Bay), only one reading required.
- ♣5. Ordinance No. 2018-31, rezoning property located east of and adjacent to Riviera Drive, in the vicinity north of Newbert Street, from IU (Institutional Use District) to PUD (Planned Unit Development), for a final Planned Unit Development (PUD) of a single-family residential development to be known as Sabal Key PUD (10.73 acres)(Case No. PUD-12-2018, Holiday Builders, Inc.), first reading.
6. Request by D.R. Horton for a final development plan for Phase III of an approved Planned Unit Development (PUD) known as Brentwood Lakes South, to allow for a change in density from 85 single-family residential lots to 127 single-family residential lots, which property is located south of and adjacent to Malabar Road, in the vicinity south of Wading Bird Circle (37.015 acres)(Case No. PUD-11-2018). **(RESCHEDULED TO P&Z – 08-01-18)**
7. Request by Palm Vista Preserve, LLC, for a final development plan for Phase 1 of an approved Planned Unit Development (PUD) known as Palm Vista Preserve, to allow 162 single-family residential lots, which property is located southeast of and adjacent to the intersection of St. Johns Heritage Parkway and Pace Drive (50.4 acres)(Case No. PUD-10-2018). **(WITHDRAWN)**

PROCUREMENTS:

Award of Bid:

- * 1. Culvert replacements, various locations – IFB No. 42-0-2018 – Public Works Department (Ag-Scape Services dba Florida Site Contracting – \$468,750); change order approval for utility relocates ‘as needed’ – not to exceed \$247,000.

Contracts:

- * 1. Continuing consultant engineering services, renewal – Utilities Department (Wade Trim - \$900,000).

THIS MEETING IS TELEVISED ON THE SPACE COAST GOVERNMENT TV CHANNEL AND IS BROADCAST LIVE ON THE CITY'S WEBSITE.

Miscellaneous:

- * 1. Professional architectural and engineering services, South Regional Water Treatment Plant expansion and North Regional Water Treatment Plant reverse osmosis rehabilitation design – RFQ No. 47-0-2018 – Utilities Department (authorization to negotiate with Tetra Tech, Inc.).

UNFINISHED AND OLD BUSINESS:

1. Appointment of one (1) 'at-large' member to the Code Enforcement Board.

COUNCIL REPORTS:

NEW BUSINESS:

- * 1. Resolution No. 2018-28, extending the commencement period for a conditional use to allow a multi-use development to be known as Northshore Palm Bay on property located south of the intersection of Robert J. Conlan Boulevard and the Florida East Coast Railway, in BMU (Bayfront Mixed Use District) zoning (24.61 acres)(Case No. CU-34-2017, Palm City Investments, F.H., LLC).
- 2. Resolution No. 2018-29, extending the commencement period for a conditional use granted to amend an existing conditional use in order to expand retail automotive gas/fuel sales on property located at the southeast corner of Malabar Road and Jupiter Boulevard, in CC (Community Commercial District) zoning (3.43 acres)(Case No. CU-20-2017, Circle K Stores, Inc.).
- * 3. Consideration of a Memorandum of Understanding with the City of Melbourne to support a Community Housing Development Organization (CHDO) project for single-family rental housing.
- * 4. Consideration of amendment to the grant application for the Federal Emergency Management Agency's Hazard Mitigation Grant Program for Police Headquarters roof replacement cost and local match.
- * 5. Consideration of travel and training for specified City employees.
- 6. Consideration of scheduling workshops for August 2018.

ADMINISTRATIVE AND LEGAL REPORTS:

PUBLIC COMMENTS/RESPONSES: Speakers are limited to 3 minutes.

ADJOURNMENT:

♣Quasi-judicial proceeding.

Councilmembers who are members of the Space Coast Transportation Planning Organization (TPO) may discuss TPO issues which may subsequently be addressed by the TPO.

If an individual decides to appeal any decision made by the City Council with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.


Any aggrieved or adversely affected person desiring to become a party in the quasi-judicial proceeding shall provide written notice to the City Clerk which notice shall, at a minimum, set forth the aggrieved or affected person's name, address, and telephone number, indicate how the aggrieved or affected person qualifies as an aggrieved or affected person and indicate whether the aggrieved or affected person is in favor of or opposed to the requested quasi-judicial action. The required notice must be received by the Clerk no later than five (5) business days at the close of business, which is 5 p.m., before the hearing. (§ 59.03, Palm Bay Code of Ordinances).

In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall, at least 48 hours prior to the meeting, contact the Office of the City Clerk at (321) 952-3414 or Florida Relay System at 711.

Pursuant to Council Policies and Procedures, members of the public wishing to use electronic media when addressing City Council must provide the electronic file to staff for screening no later than noon two (2) business days prior to the meeting.



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk 

DATE: August 2, 2018

SUBJECT: One (1) Vacancy – Infrastructure Advisory and Oversight Board

My office has been advised that one (1) vacancy exists as Angelina Iglesias has been removed from the above board due to excessive absences.

The vacancy should be announced at tonight's meeting and applications solicited for same.

An appointment will be made at the September 6, 2018, regular Council meeting. The individual appointed to the position will complete Ms. Iglesias' term which expires December 31, 2020.

/jcd

CITY OF PALM BAY, FLORIDA

SPECIAL COUNCIL MEETING NO. 2018-12

Held on Thursday, the 24th day of May 2018, at the City Hall Council Chambers, 120 Malabar Road, SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Office of the City Clerk, City Hall, Palm Bay, Florida.

The meeting was called to order at the hour of 6:33 P.M.

ROLL CALL:

| | | |
|-----------------------|---------------------|----------------|
| MAYOR: | William Capote | Present |
| DEPUTY MAYOR: | Tres Holton | Present |
| COUNCILMEMBER: | Harry Santiago, Jr. | Present |
| COUNCILMEMBER: | Jeff Bailey | Present |
| COUNCILMEMBER: | Brian Anderson | Present |
| CITY MANAGER: | Gregg Lynk | Present |
| CITY ATTORNEY: | Patricia Smith | Present (Late) |
| CITY CLERK: | Terese Jones | Present |

CITY STAFF: Yvonne McDonald, Finance Director; Elizabeth Beam, Assistant Growth Management Director.

Mrs. Smith joined the meeting at this time.

PRESENTATION:

1. Carr, Riggs and Ingram, LLC – Comprehensive Annual Financial Report for Fiscal Year ended September 30, 2017: Yvonne Clayborne, Audit and Consulting Partner, presented the audit to City Council and provided an overview of same. She answered questions posed by councilmembers.

Thomas Gaume, resident, commented on the deficiencies mentioned in the report and said that the statements were related to SHIP and CDBG. He added that an employee terminated in 2017 should not have received a payout for sick leave, as well as a 240-hour separation pay which was not permitted within the Rules and Regulations for employees.

a) Consideration of forwarding report to the Auditor General.

Motion by Mr. Bailey, seconded by Mr. Anderson, to forward the Annual Financial Report to the Auditor General.

Mr. Bailey asked the City Manager's response to Item No. IC 2017-001 with regard to keeping the employee for additional time. Mr. Lynk said that in order for the employee to leave the City in good standing, two-week's notice had to be given, which was acceptable pursuant to the City's Administrative Code. Mr. Bailey asked the policy for the employee receiving an additional \$12,000 for severance pay. Mr. Lynk said the severance was negotiated between the Human Resources Director, the employee and himself. Mr. Bailey said that should be an issue that Council should revisit at a later date.

Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Holton, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

PUBLIC COMMENTS:

1. Bill Battin, resident, did not agree with establishing development districts when a Planned Unit Development could be used. He questioned how the impact fees were incorporated and if those fees had to remain in the specified district.

PUBLIC HEARINGS:

1. Ordinance No. 2018-13, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the southeast corner of Babcock Street and Plantation Circle, from Single Family Residential Use to Commercial Use (2.89 acres)(Case No. CP-1-2018, West Pointe Babcock, LLC), only one reading required.

The Planning and Zoning Board recommended that the request be denied.

The City Attorney read the ordinance in caption only. The public hearing was opened.

Stephen Burch, representing West Pointe Babcock, LLC, requested that he present for Item Nos. 1 and 2 under Item No. 1. Mrs. Smith advised that it was two (2) separate issues, one being legislative in nature and the other quasi-judicial. The items should be addressed separately.

Deputy Mayor Holton said there was a policy in place related to deadlines for submission of visual presentations by the public for agenda items. As the information regarding the deadline was not posted to the website, he asked that the policy be waived for both affected parties.

Motion by Deputy Mayor Holton, seconded by Mr. Santiago, to accept the opportunity for both sides to provide a digital presentation.

Mr. Bailey disagreed with the motion and said that the policy had been in place and others from previous meetings had adhered to the policy. He said he would entertain the idea of removing the policy altogether in the future as he felt it was cumbersome or implement a two-hour rule. Mayor Capote had no issue with both sides being allowed to present this evening and would agree with doing away with the policy as it was becoming an unneeded issue. He also agreed with having a two-hour deadline.

Mr. Santiago said the issue was not to amend the policy, but to waive the policy tonight and move forward with the meeting. He supported the motion.

Mr. Bailey wanted to ensure there were public comments prior to the vote. Deputy Mayor Holton asked if comments were required for a procedural motion. Mrs. Smith advised that before Council takes action on any issue, public comments must be heard. Deputy Mayor Holton withdrew his motion.

Thomas Gaume, resident, said the policy in place was published on the City's website under Council's Policies and Procedures. He did not agree with changing the rules for one circumstance.

Jason Steele, Director of Government Relations for Smith and Associates, and representative for the applicant, withdrew their objection to the policy related to viewing of the presentation and would provide the presentation via hardcopy.

The public hearing continued. Attorney Stephen Burch, representative for the applicant, presented the request to Council. He said that the previous requests considered by Council were related to the entire 8.9 acres of the site. This request was for 2.89 acres. He said that the property abutted Babcock Street and would never be used for residential. Mr. Burch advised of the letters received in support of the project, including a property owner located in close proximity to the site.

Mr. Steele addressed the issues raised by staff: infrastructure level of service, natural systems, land use consistency, and consistency with the City's Comprehensive Plan.

Scott Israelson, Certified Professional Traffic Operations Engineer, testified regarding the applicant's plan for traffic. He explained that the project would not cause an issue with traffic safety and the reasons for same.

Bruce Moia, President of MBV Engineering, Inc., testified about the project's compatibility with the surrounding area. He provided a history of the area. He said that on the Space Coast Transportation Planning Organization's map, Babcock Street was listed as a major, urban collector roadway. The property matched with the City's Future Land Use Element.

Eileen Giunta, Eileen G Designs Landscaping Design and Consulting, provided landscape renderings of the project. She said there would be buffering and screening landscaping surrounding the property.

Mr. Bailey asked if the property owner supporting the project resided in the home. Mr. Burch answered in the negative.

Thomas Gaume, resident, said it was spot zoning and that Council should deny the request. The other issue was that the applicant could construct a 70-foot building if rezoned which was incompatible with the area.

Ken Smith, resident and affected property owner, said that a commercial project was not compatible with the area. The entire length of Babcock Street, apart from three (3) commercial nodes, was completely residential. Almost all the vacant land was currently zoned residential and did not meet the size requirements for commercial zoning. Mr. Smith felt that any attempt to commercialize Babcock Street at this point would only create a mixed mess of residences and commercial enterprises. He said that Council owed it to the residents of Babcock Street to not make their neighborhood into the next urban sprawl mix.

Mr. Smith questioned if the property was checked for wetlands or if soil tests were performed. He cited items from the City's Future Land Use Element and explained how the project did not meet the criteria. He said the applicant had failed to provide any substantial evidence that this change would not alter the residential and historical complexion of Plantation Circle. Mr. Smith advised that the City's Staff Report stated that the project was inconsistent with multiple policies and objectives.

Phil Weinberg, resident, said he was a strong proponent of commercial, but not at that site. It had come before the Planning and Zoning Board five (5) times and had been denied each time. City staff had also recommended denial five (5) times. He said that Council should deny the request.

Attorney Cliff Repperger, representing affected property owner Charles Clary and other residents, said that the applications did not meet the standards of responsible and managed growth. It was the applicant's burden to show that they met the criteria within the Palm Bay Code of Ordinances. He submitted a planning report by Brad Smith and Associates and highlighted same. He said that Section 183.01 of the Palm Bay Code of Ordinances stated that the purpose and intent of the Comprehensive Plan was to preserve and protect the residential or historical character of neighborhoods. He recommended that the request be denied.

Affected property owners spoke against the request and stated their reasons for same.

Mr. Burch said it was clear that the site was not intended to be part of the Planned Unit Development. He submitted a letter of support from a resident whose property would be mostly affected by the project and responded to Mr. Repperger's comments. He said that many of the comments by the residents would be addressed during the site plan review process, such as landscaping, traffic analysis, etc. Mr. Moia said that once the new interchange was in place, Babcock Street would eventually become a major arterial roadway from Malabar Road to the interchange. He objected to Mr. Smith's report that commercial should only be placed on arterial roadways. He said the intersection of Cogan Drive and Bayside Lakes Boulevard was considered a major, urban collector with a large commercial node.

Ms. Beam clarified the Staff Report. She said that the zoning map from 1972 showed that the subject site was zoned RA (Residential Agricultural). The area was consistently zoned for Rural Residential. She said that when an application was submitted to the City, staff evaluated the land use element, capital improvements, coastal management, conservation, housing, infrastructure, intergovernmental coordination, and transportation. Ms. Beam said that Babcock Street was a rural, major collector road from Indian River County to Micco and from Micco to Grant Road; then it became an urban, major collector road heading north from Grant to Valkaria; then an urban, minor arterial roadway from Valkaria north. She advised there were no scheduled plans to widen Babcock Street at this time.

Mr. Bailey asked if there were commercial nodes at Cogan Drive. Ms. Beam said it was residential at Cogan Drive and Babcock Street, but was undeveloped commercial at Eldron Boulevard and Babcock Street.

Mr. Santiago asked if NC (Neighborhood Commercial) zoning would be more compatible with the area. Ms. Beam said there were certain criteria and types of businesses allowed within that particular zoning. Mr. Bailey asked what happened if the land use was approved but the zoning request was denied. Ms. Beam said the applicant would not be able to submit another rezoning request for one year and the zoning would remain as is, but then the land use would be incompatible with the zoning. Deputy Mayor Holton asked if Council had the authority to approve NC zoning for the subsequent zoning request. Mrs. Smith said the applicant applied for a certain zoning and Council could not amend that rezoning request.

The public hearing was closed.

Motion by Mr. Anderson, seconded by Mr. Bailey, to deny Ordinance No. 2018-13.

Mr. Anderson believed that Babcock Street was going to be commercial, but felt that commercial on that site would have a huge impact and would take character away from that neighborhood. Mr. Santiago agreed.

City Council disclosed their ex-parte communications.

Mayor Capote agreed that Babcock Street would become commercial. When the Parkway and interchange were completed, traffic would increase along Babcock Street. The site's frontage was on Babcock Street which was a major roadway. He said there were many locations in which commercial and residential were mixed. He supported the request.

Deputy Mayor Holton said that the Waterstone Planned Unit Development was 0.7 miles away. He said that if the request was denied, then Council had to make sure it was firm, fair and consistent with similar requests that may come in the future. Council had the opportunity to make a decision now instead of what a future Council may approve at a later date, which may be an even more intense use of the property.

Mr. Anderson said that a few years ago, there may have been a need for commercial on that site, but now the commercial had shifted towards the Parkway and interchange and there was no longer a need for commercial on the property.

Mr. Bailey said that comparisons were made between Babcock Street and Malabar Road with regard to the mixture of residential and commercial. He did not feel that Malabar Road was comparable to this request as it was RR (Rural Residential). He said that traffic safety was a concern and, if approved, he did not foresee a traffic light in the area that would address the increased traffic. He added that the Comprehensive Plan needed to be updated and there should be no spot zoning changes.

Deputy Mayor Holton said that a traffic study would be performed during the site plan review process. He felt it was a property rights issue. He questioned who would develop that property as residential along Babcock Street.

Motion carried with members voting as follows:

| | |
|---------------------|-----|
| Mayor Capote | Nay |
| Deputy Mayor Holton | Yea |
| Councilman Santiago | Yea |
| Councilman Bailey | Yea |
| Councilman Anderson | Yea |

♣2. Ordinance No. 2018-14, rezoning property located at the southeast corner of Babcock Street and Plantation Circle, from RR (Rural Residential District) to CC (Community Commercial District) (2.89 acres)(Case No. CPZ-1-2018, West Pointe Babcock, LLC), first reading.

The Planning and Zoning Board recommended that the request be denied.

Due to the denial of Item No. 1, under Public Hearings, this item was rendered moot.

There being no further business, the meeting adjourned at the hour of 10:20 P.M.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

CITY OF PALM BAY, FLORIDA

SPECIAL COUNCIL MEETING NO. 2018-13

Held on Tuesday, the 29th day of May 2018, at the City Hall Council Chambers, 120 Malabar Road, SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Office of the City Clerk, City Hall, Palm Bay, Florida.

The meeting was called to order at the hour of 5:59 P.M.

ROLL CALL:

| | | |
|---------------------------|--------------------|---------|
| MAYOR: | William Capote | Present |
| DEPUTY MAYOR: | Tres Holton | Present |
| COUNCILMEMBER: | Harry Santiago Jr. | Present |
| COUNCILMEMBER: | Jeff Bailey | Present |
| COUNCILMEMBER: | Brian Anderson | Present |
| CITY MANAGER: | Gregg Lynk | Present |
| CITY ATTORNEY: | Patricia Smith | Present |
| DEPUTY CITY CLERK: | Terri Lefler | Present |

Also present were: Steve Brannock, Special Counsel; Margaret Sheffield, Court Reporter.

BUSINESS:

1. Attorney-client session scheduled to discuss the litigation of the *City of Palm Bay, Florida, versus Ranger Construction, Inc.*, Case No. 05-2010-CA-045316, to provide the City Attorney advice concerning settlement negotiations or strategy related to litigation expenses.

The Mayor announced the names of the individuals who would be in attendance at the session and stated the session would last approximately forty-five (45) minutes.

The City Council moved to the City Manager's Conference Room to hold the attorney-client session and returned to the Council Chambers at the conclusion of same.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 7:03 P.M.

ATTEST:

William Capote, MAYOR

Terri J. Lefler, DEPUTY CITY CLERK



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

A handwritten signature in blue ink, appearing to read "Terese M. Jones", positioned to the right of the "FROM:" line.

DATE: August 2, 2018

SUBJECT: Ordinance No. 2018-24

A public hearing is to be held on the above subject ordinance and the caption read for the second and final time at tonight's Council meeting.

If you should have any questions or desire additional information, please advise.

/tjl

Attachment

ORDINANCE NO. 2018-24

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, PROVIDING FOR A POLICY ON LOBBYING; CREATING A NEW CHAPTER IN THE PALM BAY CODE OF ORDINANCES "LOBBYING"; PROVIDING FOR THE REGISTRATION OF LOBBYISTS; CREATING A REGISTRATION PROCESS FOR LOBBYIST; PROVIDING DEFINITION; PROVIDING FOR PROGRAM PARAMETERS AND PROCEDURES; PROVIDING SPECIFIC AND NARROW EXCEPTIONS; PROVIDING FOR THE ASSESSMENT OF A FEE FOR LOBBYIST REGISTRATION; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Palm Bay desires to create an atmosphere of transparency in order to preserve and maintain the integrity of the governmental decision-making process and hereby establishes a process to register lobbyist doing business with the City of Palm Bay, and

WHEREAS, the City Council of the City of Palm Bay hereby determines and declares that the operation of responsible government requires that the fullest opportunity be afforded to the people to petition their municipal government for the redress of grievances and to express freely to the elected officials their opinions on legislation and other actions and issues; and that to preserve and maintain the integrity of the governmental decision-making process, and

WHEREAS, it is necessary that the identity, expenditures, fees, and activities of certain persons who engage in efforts to influence City Council members, decision-making bodies under the jurisdiction of the City Council, and certain City employees on matters within their official jurisdictions, either by direct communication to such Council members, decision-making bodies, or City employees; or by solicitation of others to engage in such efforts, be publicly and regularly disclosed.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay hereby adopts the foregoing whereas clauses as true and correct and incorporates such as the legislative intent of the City Council.

SECTION 2. Registration of lobbyist. The City of Palm Bay hereby establishes the following lobbying registration program as the official policy of the City:

(A) For purposes of the registration provisions of this Part, *Lobbying or Lobbying Activities* means a communication, by any means, from a lobbyist to a covered individual regarding any item that will foreseeably be decided by a final decision-making authority, which communication attempts to influence, convince, or persuade the governmental decision making of an officer or employee of the City, or of an independent agency, or the attempt to encourage the passage, defeat, or modification of any legislation, proposal or recommendation of the City or of an independent agency, or of an officer or employee of the City or of an independent agency. Lobbying shall not include the following:

- (1) Legal or settlement discussions directed toward an attorney for the City or of an independent agency; or
- (2) Participation in a quasi-judicial proceeding involving the City or an independent agency.

(B) Each person who lobbies, for compensation as a lobbyist, any officer or employee of the City, or of an independent agency, shall file with the City Clerk the following information, prior to commencement of lobbying activities on any issue:

- (1) The lobbyist's full name, business address and name and nature of business, occupation or profession.

(2) The name, business address and name and nature of the business, occupation or profession of each of the lobbyist's principals.

(3) The general and specific subject matters that the lobbyist seeks to influence.

(4) The extent of any direct business association by the lobbyist with any current elected or appointed official or employee of the City of Palm Bay. For the purposes of this article, the term "direct business association" shall mean any mutual endeavor undertaken for profit or compensation.

(5) A lobbyist representing a person shall, prior to engaging in lobbying, receive appropriate written authorization from said person to lobby on that person's behalf upon a particular subject matter. A copy of the applicable documentation, including but not limited to letters, agreements, minutes, motions or other evidence of action authorizing the lobbyist to lobby on behalf of the person shall be provided with the information required by this article.

(C) Registration may be for an annual period or for a lesser, stated period, but no person may lobby unless he or she is first registered. A person may register as a lobbyist on his or her own volition or he or she may be required by any City Official or employee to register before he or she addresses such officer or employee if he or she is not already registered with the City Clerk. The City Clerk shall maintain a database in which the registration statements and oaths submitted by lobbyists shall be entered, together with corrections and amendments as herein authorized and required. If a person shall cease to be a lobbyist, his or her registration statement and oath shall be removed from the database of active lobbyists and shall be placed in a database of inactive or former lobbyists.

(D) The following persons shall not be required to register as lobbyists:

(1) A public official, City or independent agency employee or salaried employee of a public agency acting in his or her official capacity or in connection with

his or her job responsibilities or as authorized or permitted to lobby pursuant to a collective bargaining agreement;

(2) A person who only addresses the Council, Board, or independent agency board during the "public comment" portion of its meeting agenda;

(3) A person who appears at the specific request or under compulsion of the Council or a Council committee; or of the board or committee of the board of an independent agency;

(4) Expert witnesses and other persons who give factual testimony about a particular matter or measure, but do not advocate passage or defeat of the matter or measure or any amendment thereto;

(5) A person, not exempt under paragraphs (1) through (4) and otherwise meeting the definition of a lobbyist who received no compensation as a lobbyist;

(6) A Principal or an officer or employee of a principal who performs lobbying activities as part of his or her assigned duties.

SECTION 3. Registration Fee. All lobbyists shall, at the time of registration pay a registration fee, in an amount of Fifty (\$50.00) Dollars, payable to the Palm Bay City Clerk. No lobbyist shall be required in any calendar year to pay more than the amount specified, regardless of the number of principals represented and/or amendments filed.

SECTION 4. Financial Interest disclosure. A lobbyist who attempts to persuade or influence a Council Member, a Council committee, or the Council as a whole; or an independent agency board member, committee, or the independent agency as a whole; on any project, contract, development, ordinance, resolution, or agenda item, shall, prior to commencing lobbying efforts, file with the City Clerk a disclosure revealing whether the lobbyist has a financial interest in the contract,

development or project that extends beyond its approval, and the percent of that interest.

SECTION 5. Penalties.

(A) The City Attorney or designee, shall be informed of any person engaged in lobbying activities who has failed to comply with the provisions of this ordinance, and, in gross instances of violations, shall conduct such investigations as he or she shall deem necessary under the circumstances.

(B) A first violation of this section shall result in the Council issuing a warning, reprimand, suspension, or prohibit the violator from appearing on behalf of any person before the Council, Board or any decision-making body under the jurisdiction of the Council or from otherwise lobbying for any person in any fashion for a period of time; provided, however, that any suspension or prohibition may not exceed a period of two (2) years, and no sanction shall be imposed unless the lobbyist allegedly in violation has been afforded reasonable notice and an opportunity to be heard. The penalties provided in this section shall be the exclusive penalties imposed for violations of this ordinance, except as may be adopted from time to time or provided elsewhere in the City Code of Ordinance. The intentional failure or refusal of any lobbyist to comply with any order of the Council suspending or prohibiting the lobbyist from lobbying shall be punishable as provided by law and shall otherwise be subject to such civil remedies as the City may pursue, including injunctive relief.

(C) A second violation shall be punishable by a fine imposed on the lobbyist in the amount of \$250.00, in addition to the penalties set forth in subsection (B). There will be a \$250.00 fine for each violation thereafter.

(D) Each incident of a lobbyist engaging in lobbyist activities with City official or protected employee without first being registered shall constitute a separate violation.

(E) The validity of any action taken by the Council, City employees, or any decision-making body under the jurisdiction of the Council, shall not be affected by the failure of any person to comply with the provisions of this ordinance.

(F) In addition to all other penalties in this section, an employer who has retained a lobbyist(s) to lobby in connection with a competitive solicitation shall be deemed non-responsive unless the employer, in responding to the competitive solicitation, certifies that each lobbyist retained has timely filed the registration or amended registration required under this ordinance. If, after awarding a contract in connection with the solicitation, the City learns that the certification was erroneous, and upon investigation determines that the error was willful or intentional on the part of the employer, the City may, on that basis, exercise any contractual right to terminate the contract for convenience.

SECTION 6. Lobbying by former city council members, board members and employees; prohibition. A person who has been elected to the City Council or who is employed by the City in Management Groups I or II, as identified in the City's Personnel Policies and Administrative Code adopted by the City Council as amended from time to time shall not conduct lobbying activities for a period ~~one (1) year~~ two (2) years after the termination of employment with the City, or within ~~one (1) year~~ two (2) years from the last day of service to the City in any official capacity. The provisions of this subsection shall only apply to persons who become officers or employees of the City after the effective date of this section.

SECTION 7. It is the intention of the City Council of the City of Palm Bay that the provisions of this ordinance shall be made a part of the City of Palm Bay Code of Ordinances, Chapter 63, "Lobbying", and the sections shall be renumbered to accomplish such intention.

SECTION 8. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 9. Effective date. This Ordinance shall become effective on January 1, 2019.

Read in title only at Meeting No. 2018-17, held on July 19, 2018; and read in title only and duly enacted at Meeting No. 2018- , held on , 2018.

ATTEST:

William Capote, MAYOR

Terese M. Jones, CITY CLERK


Reviewed by CAO: _____

Words ~~stricken~~ through shall be deleted; underscored words shall be included. Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Comprehensive Plan Amendment Request – Rook at Palm Bay, LLC (Jack Spira, Rep.)

Rook at Palm Bay, LLC (Jack Spira, Rep.) has submitted an application for a large scale Comprehensive Plan Future Land Use (FLU) Map Amendment to change three parcels in the vicinity south of Malabar Road SE and east of Cassia Avenue SE, containing a total of 15.1 acres of vacant land from Commercial Use (C) and Single Family Residential Use (SFR) to Multiple Family Residential Use (MFR) and Commercial Use (C). The request shall be transmitted to the Florida Department of Economic Opportunity for review.

REQUESTING DEPARTMENT:

Growth Management

STAFF RECOMMENDATION:

Motion to approve Case CP-9-2018, pursuant to Chapter 163, Florida Statutes.

Planning and Zoning Board Recommendation:

Approval of the request by a vote of 5 to 2.

Attachments: 1) Case No. CP-9-2018
2) Ordinance

EB/cp/ab



LAND DEVELOPMENT DIVISION
120 MALABAR ROAD SE
PALM BAY, FL 32907
T: 321-733-3042 F: 321-953-8920

STAFF REPORT
PREPARED BY:
Christopher Balter
Planner II

CASE NUMBER
CP-9-2018

APPLICANT/PROPERTY OWNER
Rook at Palm Bay, LLC (Jack Spira, Rep.)

PLANNING & ZONING BOARD HEARING DATE
July 11, 2018

PROPERTY LOCATION/ADDRESS
Tax Parcels 9, 5, and 6 in the vicinity south of Malabar Road SE and east of
Cassia Avenue SE

SUMMARY OF REQUEST

The applicant is requesting a large scale Comprehensive Plan Future Land Use (FLU) Map Amendment to change three parcels containing a total of 15.1 acres of vacant land from Commercial Use (C) and Single Family Residential Use (SFR) to Multiple Family Residential Use (MFR) and Commercial Use (C).

| EXISTING ZONING | EXISTING FUTURE LAND USE | SITE IMPROVEMENTS | SITE ACREAGE | SURROUNDING ZONING & FUTURE LAND USE |
|--------------------------------|---|-----------------------------|-------------------------|--|
| CC, Community Commercial | Single Family Residential Use; Commercial Use | Undeveloped; Vacant Land | 15.1 +/- (3 parcels) | N: CC, Community Commercial Use; Vacant Commercial Land E: CC, Community Commercial Use; Wal-Mart and RS-1, Single Family Homes S: RR, Rural Residential Use; Vacant Land and RS-2, Centerpointe Church W: RR, Rural Residential Use; American Legion |

PROPERTY HISTORY

The subject property is currently undeveloped land situated south of Malabar Road, east of Cassia Avenue, and west of Wal-Mart.

COMPATIBILITY with the COMPREHENSIVE PLAN

The proposed Multifamily Residential Land Use provides a transition from Single Family Residential Uses to Commercial Uses along Malabar Road. This provides a mix of compatible land uses and is consistent with the Comprehensive Plan

COMPATIBILITY with the CODE OF ORDINANCES

Development of the subject property is subject to the requirements of the City's Land Development Code.

STAFF RECOMMENDATION:

TRANSMIT ☐

APPROVE ☒

APPROVE WITH CONDITIONS ☐

DENY ☐

ANALYSIS:

Per Chapter 183: Comprehensive Plan Regulations, Section 183.01(B), the purpose and intent of the Comprehensive Plan is to encourage the most appropriate use of land and resources to promote the health, safety, and welfare of the community.

1. Future Land Use Element

The Comprehensive Plan (Plan) FLU Element Goal FLU-1 is to *ensure a high quality, diversified living environment through the efficient distribution of compatible land uses*.

The three subject parcels are south of Malabar Road, east of Cassia Avenue, and west of Walmart and currently consist of undeveloped land.

The FLU of the surrounding area consists of single family residential, commercial areas, and public/semipublic uses. To the immediate north of the subject parcels is commercial, running along Malabar both east and west.

The subject parcels are located at what would be identified as adjacent to a commercial corridor. The proposed Multifamily Residential Land Use provides a transition from Single Family Residential Uses to Commercial Uses along Malabar Road. This provides a mix of compatible land uses and is consistent with the comprehensive plan. Buffering from the adjacent uses will be reviewed and vetted during the administrative site plan review process.

2. Capital Improvements Element

Adequate facilities are near the subject property. As part of the administrative site plan review process staff will review any utility line extension for adequate utility services.

3. Coastal Management Element

The subject property is not located within the Coastal High Hazard Area.

4. Conservation Element

The environmental character of the City is maintained through conservation, appropriate use, and protection of natural resources.

It appears that the subject property is not located within any of the Florida scrub jay polygons identified in the City's Habitat Conservation Plan (HCP). No other protected species are known to inhabit the subject property. Any protected species that would be found on the subject property would need to be mitigated for as required by State and Federal regulations and per Comprehensive Plan Policy CON-1.7B.

The US Department of Agriculture Natural Resources Conservation Service (NRCS) soils classification for the subject property include Myakka sand.

Recreation: The proposed FLU amendment would not exceed the existing park land or recreational level of service standards for the planning area.

5. Housing Element

The proposed FLU amendment does not adversely impact the supply and variety of safe, decent, attractive and affordable housing within the City.

6. Infrastructure Element

The City evaluates present and future water, sewer, drainage, and solid waste and assesses the ability of infrastructure to support development.

Utilities: The FLU change will not cause level of service to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. Water and sewer service is provided by the City. Malabar Road contains water and sewer extensions. These utility lines will be extended into the site as it develops to provide for adequate utility services. Additional lift stations may be added as required. Solid waste collection is provided by Waste Management Inc.

Drainage: Any proposed storm water management systems will be reviewed and approved by the City during the site plan review process.

Any development of the subject property would alter the present natural site conditions as the property is currently undeveloped and therefore, would have some impact. While all of the property is located within Flood Zone X which is an area of minimal flood hazard outside the Special Flood Hazard Area (100-year flood) and the 500-year flood zone.

Any future development will require establishment of required drainage and utility easements.

7. Intergovernmental Coordination Element

Public Schools: The proposed FLU amendment to MFR – Multi-Family Residential for a large size (15.1 acres) parcel will add housing units and population is anticipated to have some impact to the public-school system.

8. Transportation Element

The objectives of the Plan's Transportation Element are to provide a safe, balanced, efficient transportation system that maintains roadway level of service and adequately serves the needs of the community.

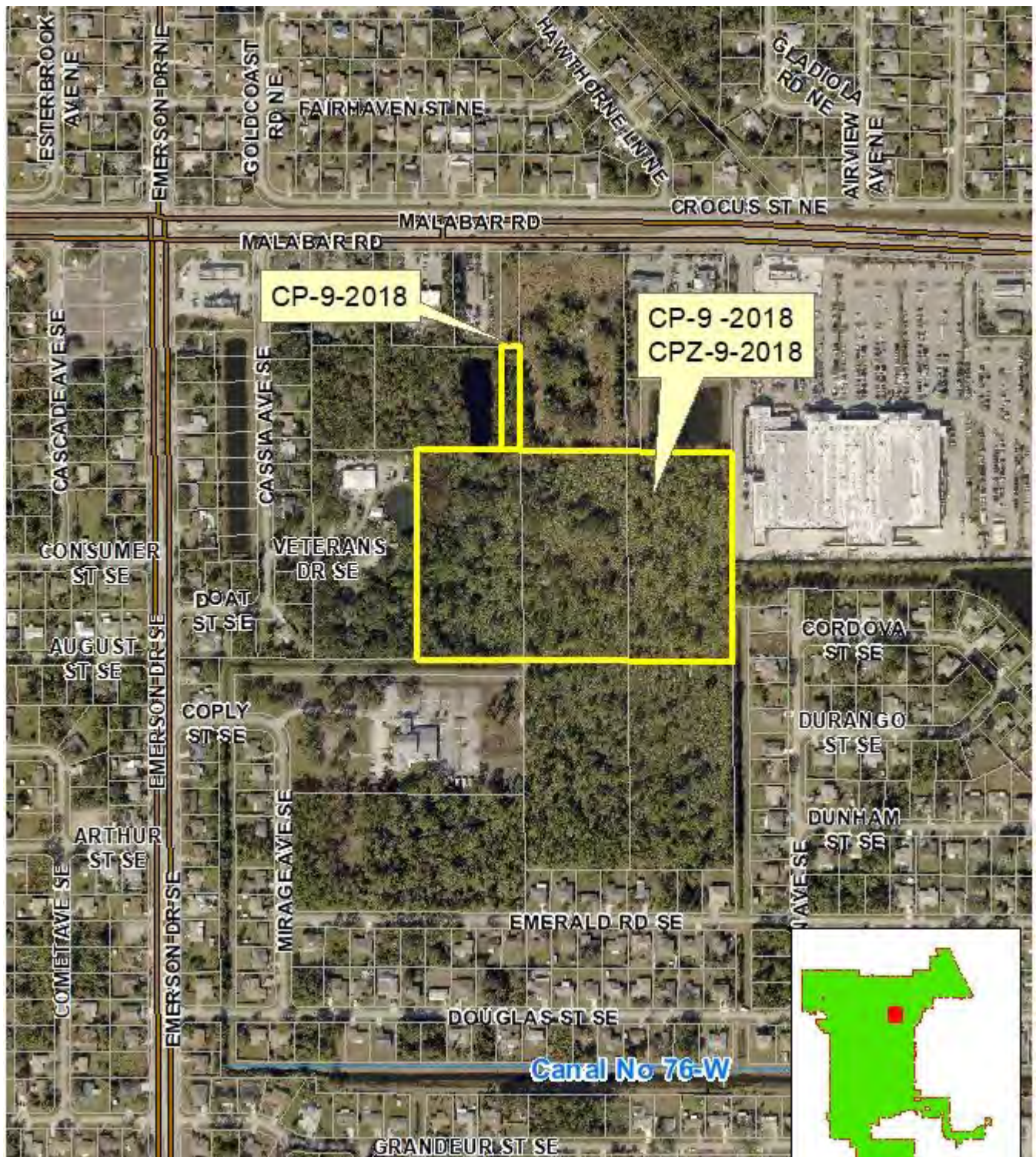
The proposed FLU amendment to MFR – Multi-Family Residential use as the principle use may negatively impact the surrounding roadway network. A Traffic Study will be required during the administrative site plan review process.

STAFF RECOMMENDATION:

The requested large-scale amendment does propose a land use change to the FLU Map of the City's Plan.

The information contained in this report should provide the Board and Council information to determine the need and justification for the change, the effect of the change on the subject and surrounding properties, and the relationship of the proposed amendment to furthering the purposes of the Plan.

Motion to approve Case CP-9-2018, pursuant to Chapter 163, Florida Statutes.



AERIAL LOCATION MAP

CASE NO. CP-9-2018 / CPZ-9-2018

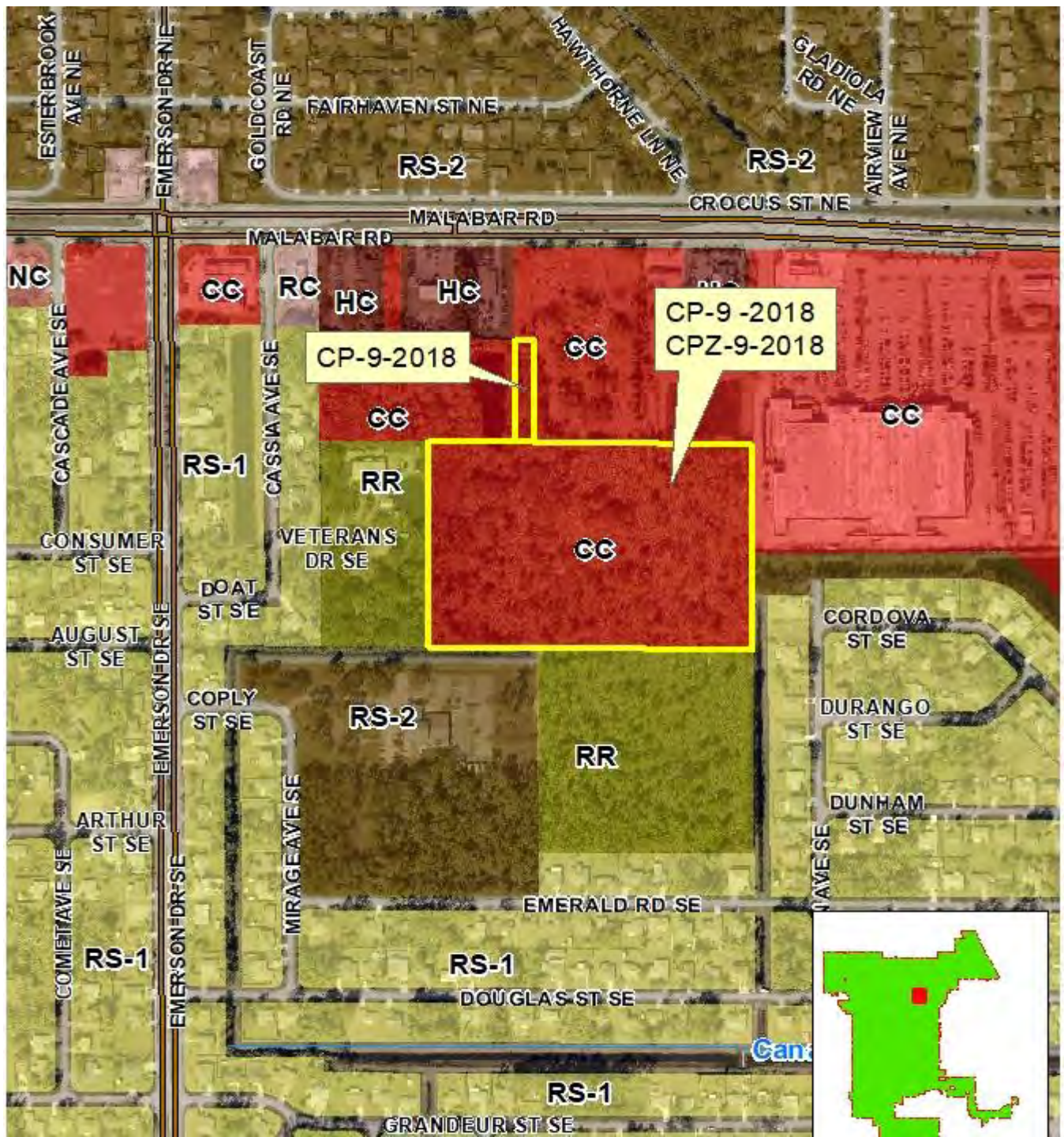
Subject Property

In the vicinity South of Malabar Rd SE and East of Cassia Av. SE

Map for illustrative purposes only. Not to be construed as binding or as a survey



Not to Scale



ZONING MAP CASE NO. CP-9-2018 / CPZ-9-2018

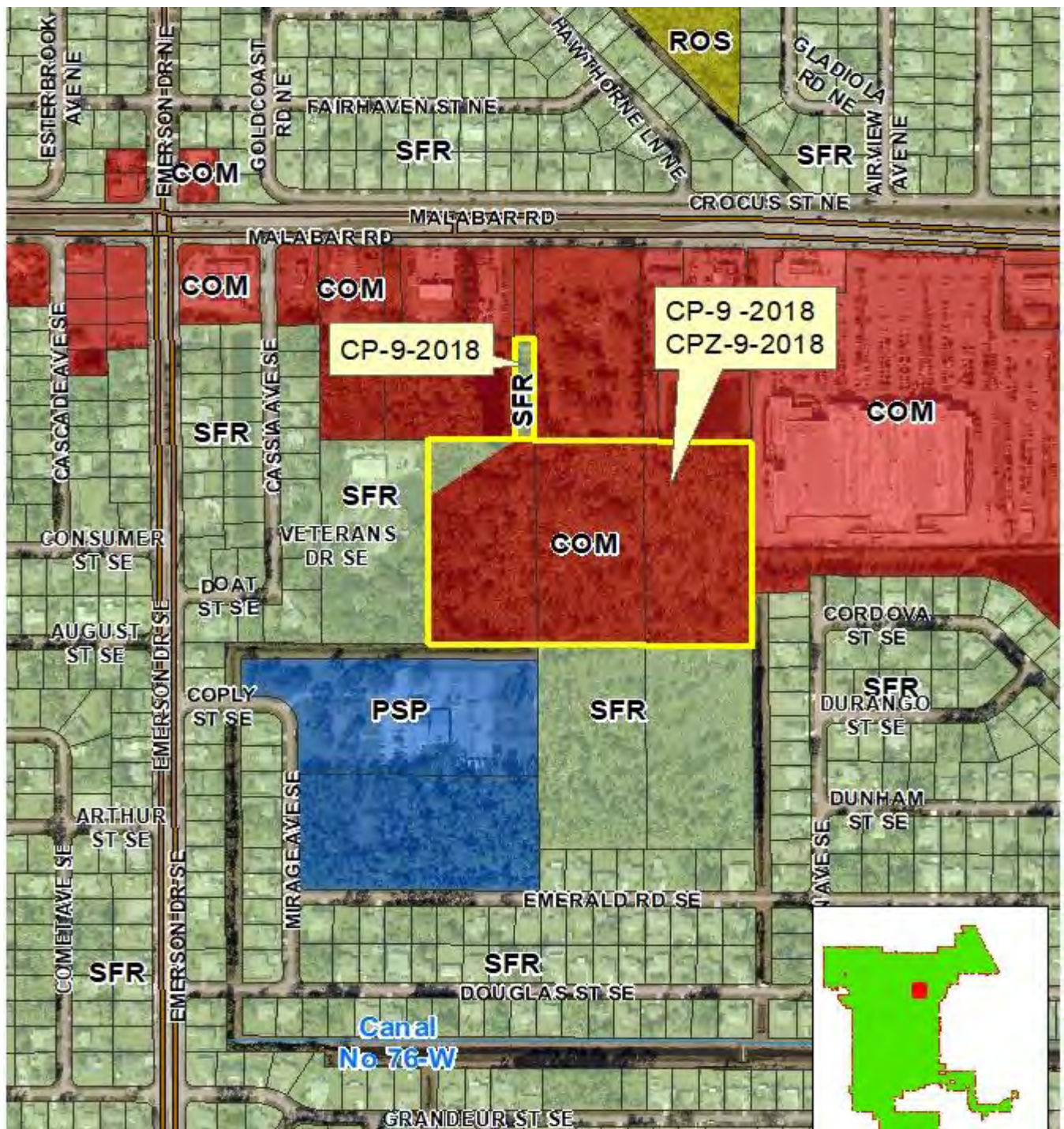
Subject Property In the vicinity South of Malabar Rd SE and East of Cassia Av. SE

Current Zoning Classification
CC – Community Commercial



Not to Scale

Map for illustrative purposes only. Not to be construed as binding or as a survey



FUTURE LAND USE MAP CASE NO. CP-9-2018 / CPZ-9-2018

Subject Property In the vicinity South of Malabar Rd SE and East of Cassia Av. SE

Future Land Use Classification
COM – Commercial

Map for illustrative purposes only. Not to be construed as binding or as a survey



Not to Scale



COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, between 8:30 a.m. and 5:00 p.m., Monday through Friday, to be processed for consideration by the Planning and Zoning Board. The application will then be referred by the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

1) NAME OF APPLICANT (Type or print) Rook at Palm Bay, LLC

ADDRESS 4828 Ashford Dunwoody Rd., Suite 400

CITY Atlanta STATE Georgia ZIP 30338

PHONE # 770-391-1233 FAX # 678-580-6889

E-MAIL ADDRESS moshe@crownhgroup.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

see attached

SECTION 5 TOWNSHIP 29 RANGE 37

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 15.1 +/- acres

4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): Commercial and SFR

5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE:

Multi-Family Residential & Commercial

6) PRESENT USE OF THE PROPERTY: vacant

7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: no

8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:

Yes

(Impacts to transportation facilities, water and sewer facilities, drainage, recreation facilities, and solid waste must be examined and justified before acceptance by the Florida Department of Economic Opportunity and the City of Palm Bay.)

- 9) JUSTIFICATION FOR CHANGE (attach additional sheets containing supporting documents and evidence if necessary):

In order to create a diversified development on this property, a multi-family component is requested within the project. The frontage along Malabar Road will remain commercial zoned and the area on the south half of the project is more conducive to multi-family residential use. It is our opinion that a multi-family residential development would provide a transitional landuse between the commercial area and other surrounding institutional and residential uses.

- 10) SPECIFIC USE INTENDED FOR PROPERTY:

Apartment community

- 11) THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP:

☒ *Application Fee. Make check payable to "City of Palm Bay."

☒ **Large Scale Map Amendment** (10 acres or more) \$1,600.00 ☐ **Text Amendment** (Comp. Plan) \$1,600.00

☐ **Small Scale Map Amendment** (Less than 10 acres) \$1,000.00

☒ Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)).

☒ A listing of legal descriptions (for land use amendments) of all properties within a 500 foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This can be obtained for a fee from the Brevard County Planning and Zoning Department at 321-633-2060.)

☒ School Board of Brevard County School Impact Analysis Application (if applicable).

TBD Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.

N/A WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT.

**CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION
PAGE 3 OF 3**

I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE LOCAL PLANNING AGENCY, AND CERTIFY THAT ALL THE ANSWERS TO THE QUESTIONS IN SAID APPLICATION, AND ALL DATA AND MATTER ATTACHED TO AND MADE A PART OF SAID APPLICATION ARE HONEST AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant

Date 5/1/2018

Printed Name of Applicant

Moshe Mordechai mgr.

*NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY

LEGAL DESCRIPTION: (AREA SUBJECT TO COMPREHENSIVE PLAN AMENDMENT)

PARCEL B:

THE EAST 1/2 OF THE SOUTH 1/2 OF LOT 30, SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST, FLORIDA INDIAN RIVER LAND COMPANY, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LESS AND EXCEPT ROAD RIGHT-OF-WAY.

PARCEL C:

THE SOUTHWEST 1/4 OF LOT 30, PLAT OF FLORIDA INDIAN RIVER LAND COMPANY, SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

PARCEL D-SOUTH:

THE EAST 1/2 OF THE SOUTH 1/2 OF LOT 29, FLORIDA INDIAN RIVER LAND COMPANY, SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LESS AND EXCEPT THE NORTH 33.0 FEET FOR ROAD RIGHT OF WAY.

THE SOUTH ±330 FEET OF THE FOLLOWING DESCRIBED PARCEL:

PARCEL D NORTH:

THE EAST 60 FEET OF THE NORTH 1/2 OF LOT 29, FLORIDA INDIAN RIVER LAND COMPANY, SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LESS AND EXCEPT THE NORTH 33.0 FEET FOR ROAD RIGHT OF WAY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST, AND RUN N89°34'23" W ALONG THE CENTERLINE OF MALABAR ROAD, SAID ROADWAY ALSO KNOWN AS STATE ROAD NO. 514, A 66 FOOT WIDE PUBLIC ROAD RIGHT-OF-WAY, A DISTANCE OF 721.90 FEET; THENCE DEPARTING SAID CENTERLINE OF ROADWAY, RUN S00°34'08" E A DISTANCE OF 33.00 FEET TO THE SOUTH RIGHT- OF- WAY LINE OF MALABAR ROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE RUN S89°34'23" E ALONG THE SOUTH RIGHT-OF-WAY OF MALABAR ROAD A DISTANCE OF 60.00 FEET TO THE NORTHWEST CORNER OF PARCEL "E" AS RECORDED IN OFFICIAL RECORDS BOOK 7179, PAGE 2034, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE RUN S00°34'26" E ALONG THE WEST LINE OF SAID PARCEL "E" A DISTANCE OF 628.64 FEET TO THE SOUTHWEST CORNER OF PARCEL "E"; THENCE RUN N89°40'59" W A DISTANCE OF 60.05 FEET TO THE SOUTHEAST CORNER OF OFFICIAL RECORDS BOOK 8048, PAGE 1652, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE RUN N00°34'08" W A DISTANCE OF 628.75 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF MALABAR ROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING.





CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
SPECIAL MEETING NO. 2018-07

Held on Wednesday, July 6, 2018, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Land Development Division, Palm Bay, Florida. The minutes are not a verbatim transcript but a brief summary of the discussions and actions taken at this meeting.

Mr. Wendall Stroderd called the meeting to order at approximately 7:00 p.m.

Mr. Woodrum led the Pledge of Allegiance to the Flag.

ROLL CALL:

| | | |
|--------------------------|---|---------|
| CHAIRPERSON: | Wendall Stroderd | Present |
| VICE CHAIRPERSON: | Philip Weinberg | Present |
| MEMBER: | Leeta Jordan | Present |
| MEMBER: | Khalilah Maragh | Present |
| MEMBER: | William Pezzillo | Present |
| MEMBER: | Rainer Warner | Present |
| MEMBER: | Thomas "Woody" Woodrum | Present |
| MEMBER: | Michele Quinn (School Board Appointee) | Absent |

CITY STAFF: Present were Ms. Elizabeth Beam, Assistant Growth Management Director; Mr. Christopher Balter, Planner II; Ms. Karen Black, Planner II; Ms. Chandra Powell, Recording Secretary; Mr. Rodney Edwards, Assistant City Attorney.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2018-06. As a correction, Mr. Weinberg noted that he had seconded the motion on page 1 to approve the minutes of 2018-05, and that he had made the motion on page 3 to approve Case CP-5-2018. Motion by Mr. Weinberg, seconded by Ms. Maragh to approve the minutes of 2018-06 as corrected. The motion carried with members voting unanimously.

Ms. Jordan felt that a requirement for the signal would place an unfair burden on the applicant before a traffic study was completed, which could determine otherwise. Mr. Warner commented that there was a lack of information to make a wise decision. Ms. Maragh reiterated that the project would not go forward unless the traffic study was mitigated.

A vote was called on the motion by Mr. Weinberg, seconded by Ms. Jordan to submit Case PUD-12-2018 to City Council for Final Planned Unit Development (PUD) approval to allow for a proposed 40-lot single-family residential development called Sabal Key PUD, subject to the staff comments contained in the staff report. The motion failed with members voting as follows:

| | |
|--------------|-----|
| Mr. Stroder | Nay |
| Mr. Weinberg | Aye |
| Ms. Jordan | Aye |
| Ms. Maragh | Aye |
| Mr. Pezzillo | Nay |
| Mr. Warner | Nay |
| Mr. Woodrum | Nay |

4. CP-9-2018 – ROOK AT PALM BAY, LLC (JACK SPIRA, REP.)

Mr. Balter presented the staff report for Case CP-9-2018. The applicant had requested a large scale Comprehensive Plan Future Land Use Map amendment from Commercial Use and Single Family Residential Use to Multiple Family Residential Use and Commercial Use. Staff recommended Case CP-9-2018 for approval, pursuant to Chapter 163, Florida Statutes.

Mr. Woodrum wanted to know who would fund the water and sewer infrastructure for the project. Mr. Balter stated that water and sewer would be funded by the applicant at the time of development.

Mr. Jack Spira (representative for the applicant) stated the development would be an improvement to the vagrants and homeless on the property. There was no opposition to the request at the Citizen Participation Plan (CPP) meeting, and a traffic study would be required during administrative review.

Ms. Jordan asked about the site access. Mr. Spira stated that the access to the property would be off of Malabar Road. He submitted a conceptual layout of the site that would have commercial frontage and multifamily in the rear. He assured the board that the developer had a significant amount of experience with similar projects. Ms. Maragh noted Aldi Grocery Store and LA Fitness Club on the drawing. Mr. Spira explained that the businesses were pending based on the approval of the subject request.

The floor was opened and closed for public comments; there were no comments from the audience, and there was no correspondence in the file.

Mr. Warner inquired whether Malabar Road would be the sole access for the property. Mr. Spira indicated that this was correct, but that the traffic study could address further.

Mr. Stroderd asked whether the property owned by the applicant extended to Malabar Road. Mr. Spira confirmed that this was correct.

Motion by Mr. Weinberg, seconded by Ms. Maragh to submit Case CP-9-2018 to City Council for approval of a large scale Comprehensive Plan Future Land Use Map amendment from Commercial Use and Single Family Residential Use to Multiple Family Residential Use and Commercial Use, pursuant to Chapter 163, Florida Statutes. The motion carried with members voting as follows:

| | |
|--------------|-----|
| Mr. Stroderd | Aye |
| Mr. Weinberg | Aye |
| Ms. Jordan | Aye |
| Ms. Maragh | Aye |
| Mr. Pezzillo | Nay |
| Mr. Warner | Aye |
| Mr. Woodrum | Nay |

5. ♣CPZ-9-2018 – ROOK AT PALM BAY, LLC (JACK SPIRA, REP.)

Mr. Balter presented the staff report for Case CPZ-9-2018. The applicant had requested a zoning amendment from a CC, Community Commercial District to an RM-20, Multiple-Family Residential District. Staff recommended Case CPZ-9-2018 for approval, pursuant to all applicable City ordinances.

ORDINANCE NO. 2018-28

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 183, COMPREHENSIVE PLAN REGULATIONS, SECTION 183.01, COMPREHENSIVE PLAN, SUBSECTION (D), ADOPTION OF FUTURE LAND USE MAP, BY AMENDING FUTURE LAND USE MAP SERIES NO. 2; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Palm Bay has designated the Planning and Zoning Board as its Local Planning Agency and said Local Planning Agency held a public hearing on an amendment to the Comprehensive Plan on July 11, 2018, after public notice, and

WHEREAS, the City Council of the City of Palm Bay, pursuant to Chapter 163, Florida Statutes, held a public hearing on an amendment to the Comprehensive Plan on August 2, 2018, after public notice, and

WHEREAS, the City Council of the City of Palm Bay, pursuant to Chapter 163, Florida Statutes, submitted the amendment to the Florida Department of Economic Opportunity for review and comment, and

WHEREAS, the Florida Department of Economic Opportunity submitted a Comment Report regarding this amendment, and

WHEREAS, the City Council of the City of Palm Bay has considered the Comments provided and has addressed all items, and

WHEREAS, the City Council of the City of Palm Bay, pursuant to Chapter 163, Florida Statutes, held an adoption public hearing on the amendment to the Comprehensive Plan on **(DATE OF HEARING)**, after public notice, and

WHEREAS, the City Council of the City of Palm Bay desires to adopt said amendment to the Comprehensive Plan of the City of Palm Bay.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Comprehensive Plan of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the change in land use of property from Commercial and Single Family Residential Uses to Multiple Family Residential and Commercial Uses, which property is legally described as follows:

Tax Parcels 9, 5, and 6, of the Public Records of Brevard County, Florida; Section 5, Township 29S, Range 37E; containing 15.1 acres, more or less.

SECTION 2. The Future Land Use Map Series Map No. 2 is hereby changed to reflect this amendment.

SECTION 3. All staff report conditions and limitations shall be met and those conditions and limitations shall be made a part of the Comprehensive Plan.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 5. This ordinance shall become effective 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance pursuant to Section 163.3184(3)(c)4, Florida Statutes. The Department only issues a final order for Expedited State Review amendments if they are challenged by an affected party.

Read in title only at Meeting No. 2018- , held on , 2018; and read in title only and duly enacted at Meeting No. 2018- , held on , 2018.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____


Applicant: Rook at Palm Bay, LLC
Case No.: CP-9-2018

cc: (date) Applicant
Case File
Brevard County Property Appraiser's Office (via michelle.lastinger@bcpao.us)



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Comprehensive Plan Zoning Request - Rook at Palm Bay, LLC (Jack Spira, Rep.)

Rook at Palm Bay, LLC (Jack Spira, Rep.) has submitted an application for a rezoning of three parcels of vacant land in the vicinity south of Malabar Road SE and east of Cassia Avenue SE, from Community Commercial (CC) to Multiple-Family District (RM-20). There is an accompanying large scale Future Land Use Map amendment requesting to change three parcels containing a total of 15.1 acres of vacant land from Commercial Use (C) and Single Family Residential Use (SFR) to Multiple Family Residential Use (MFR) and Commercial Use (C).

REQUESTING DEPARTMENT:

Growth Management

STAFF RECOMMENDATION:

Staff recommends Approval of Case CPZ-9-2018, pursuant to all applicable City ordinances.

Planning and Zoning Board Recommendation:

Approval of the request by a vote of 6 to 1.

Attachments: 1) Case No. CPZ-9-2018
2) Ordinance

EB/cp/ab



LAND DEVELOPMENT DIVISION
120 MALABAR ROAD SE
PALM BAY, FL 32907
T: 321-733-3042 F: 321-953-8920

STAFF REPORT
PREPARED BY:
Christopher Balter
Planner II

CASE NUMBER
CPZ-9-2018

APPLICANT/PROPERTY OWNER
Rook at Palm Bay, LLC (Jack Spira, Rep.)

PLANNING & ZONING BOARD HEARING DATE
July 11, 2018

PROPERTY LOCATION/ADDRESS
Tax Parcels 9, 5, and 6 in the vicinity south of Malabar Road SE and east of
Cassia Avenue SE

SUMMARY OF REQUEST

The applicant is requesting a rezoning of three parcels of vacant land from Community Commercial (CC) to Multiple-Family District (RM-20).

| EXISTING ZONING | EXISTING LAND USE | SITE IMPROVEMENTS | SITE ACREAGE | SURROUNDING ZONING & LAND USE |
|--------------------------------|---|-----------------------------|-------------------------|---|
| CC- Community Commercial | Single Family Residential Use; Commercial Use | Undeveloped; Vacant Land | 15.1 +/- (3 parcels) | N: CC, Community Commercial Use; Vacant Commercial Land E: CC, Community Commercial Use; Walmart and RS-1, Single Family Homes S: RR, Rural Residential Use; Vacant Land and RS-2, Centerpointe Church W: RR, Rural Residential Use; American Legion |

PROPERTY HISTORY

The subject property is currently undeveloped land situated south of Malabar Road, east of Cassia Avenue, and west of Wal-Mart.

COMPATIBILITY with the COMPREHENSIVE PLAN

The application request for rezoning from Community Commercial to Multiple Family Residential, RM-20 is compatible with the density, transitioning from residential to commercial of the surrounding area.

COMPATIBILITY with the CODE OF ORDINANCES

Development of the subject property is subject to the requirements of the City's Land Development Code.

STAFF RECOMMENDATION:

TRANSMIT ☐

APPROVE ☒

APPROVE WITH CONDITIONS ☐

DENY ☐

ANALYSIS:

The following analysis is per Chapter 185: Zoning Code, Section 185.201(C) which states that all proposed amendments shall be submitted to the Planning and Zoning Board which shall study such proposals in accordance with items 1 through 4 of Section 185.201(C).

1. *The need and justification for the change.*

The applicant states the justification for change is “to provide mixed use of multi-family to accommodate existing commercial”. Malabar Road is considered a commercial corridor. The three parcels that are requesting to be changed do not front Malabar Road. The intended use for the property is for an apartment complex.

2. *When pertaining to the rezoning of land, the effect of the change, if any, on the particular property and on surrounding properties.*

The applicant has not specifically addressed this item in their application.

The subject property and surrounding area is a mix of residential and commercial zoning classifications.

The designation of RM-20 for the subject property is transitionally compatible with the surrounding area as it is a mix of both residential and commercial. The RM-20, zoning district is intended to provide an area of high density residential development. Lot, height, and other restrictions are intended to accommodate an intense degree of development, maintaining adequate amounts of open space for residential uses.

3. *When pertaining to the rezoning of land, the amount of undeveloped land in the general area and in the city having the same classification as that requested.*

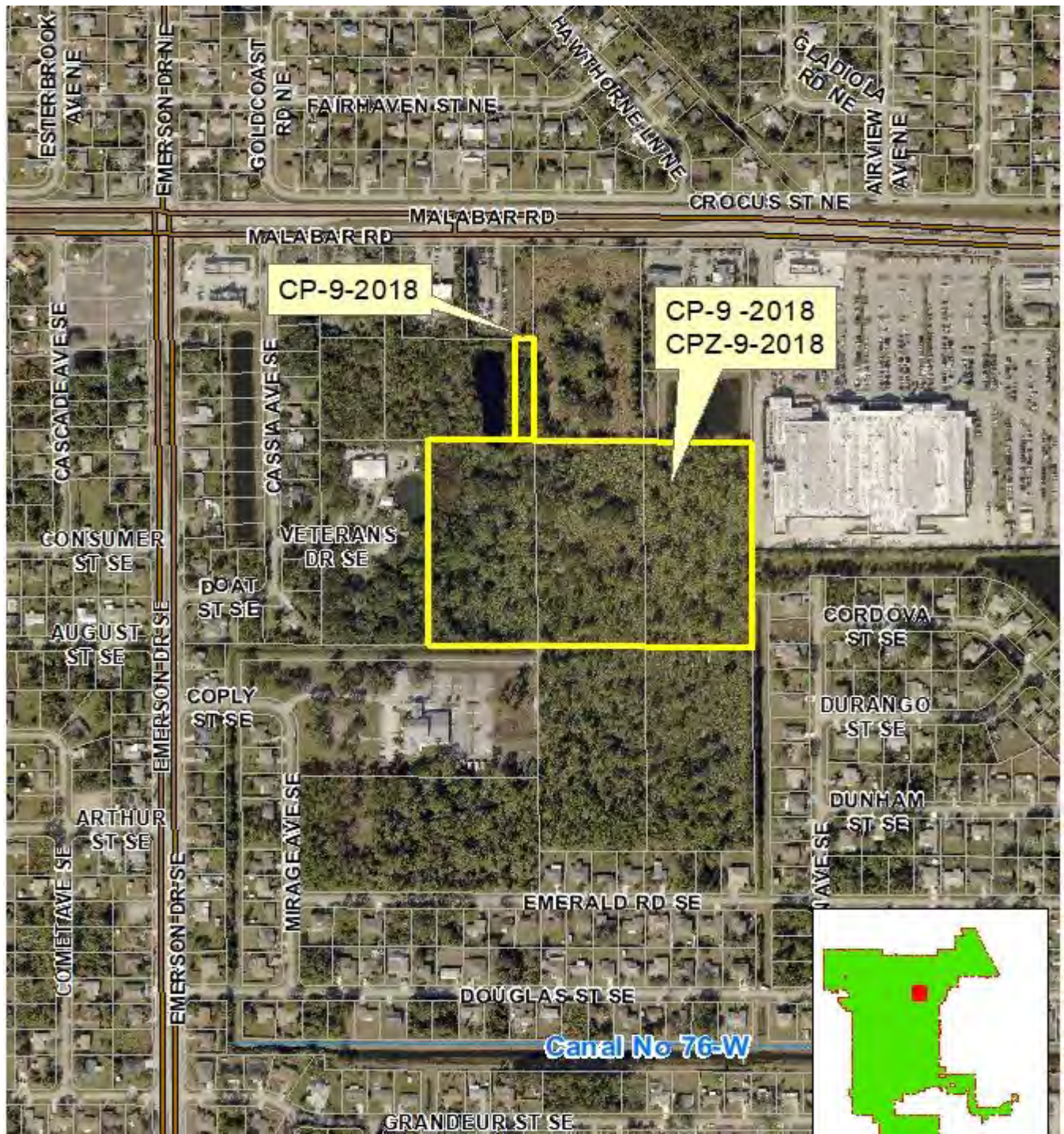
Approximately 40.96 acres of multiple family zoned land is 0.8 mile to the southeast of the subject parcels, at the intersection of San Filippo Drive SE and Treeland Boulevard SE. However, 23.10 acres of the multiple family zoned land is developed and constructed.

4. *The relationship of the proposed amendment to the purpose of the city plan for development, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the Comprehensive Plan (Plan).*

The proposed amendment will further the purposes of Chapter 185 and the Comprehensive Plan.

STAFF RECOMMENDATION:

Approval of Case CPZ-9-2018, pursuant to all applicable City ordinances.



AERIAL LOCATION MAP

CASE NO. CP-9-2018 / CPZ-9-2018

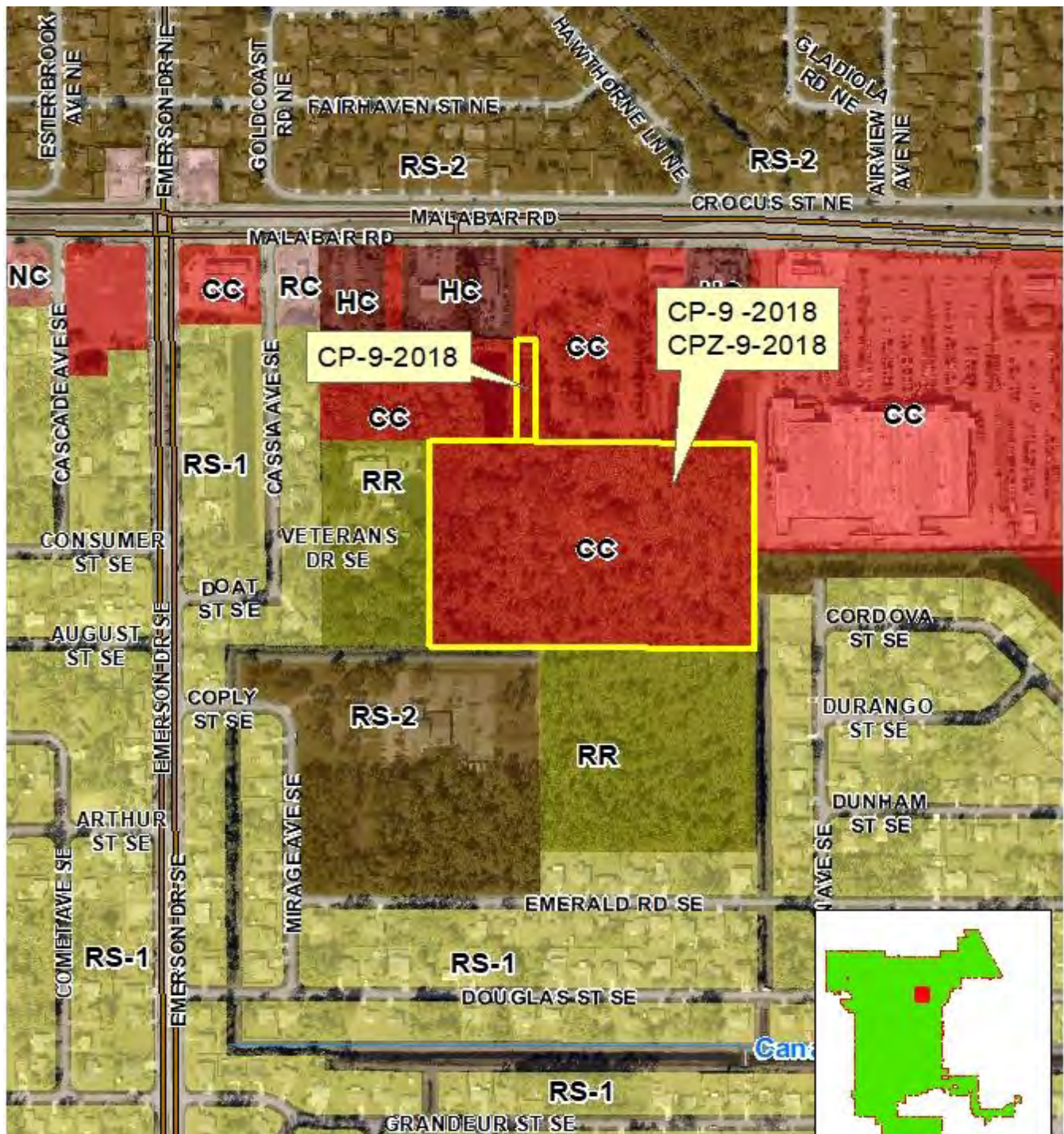
Subject Property

In the vicinity south of Malabar Rd SE and east of Cassia Av SE



Not to Scale

Map for illustrative purposes only. Not to be construed as binding or as a survey



ZONING MAP CASE NO. CASE NO. CP-9-2018 / CPZ-9-2018

Subject Property

In the vicinity south of Malabar Rd SE and east of Cassia Av SE

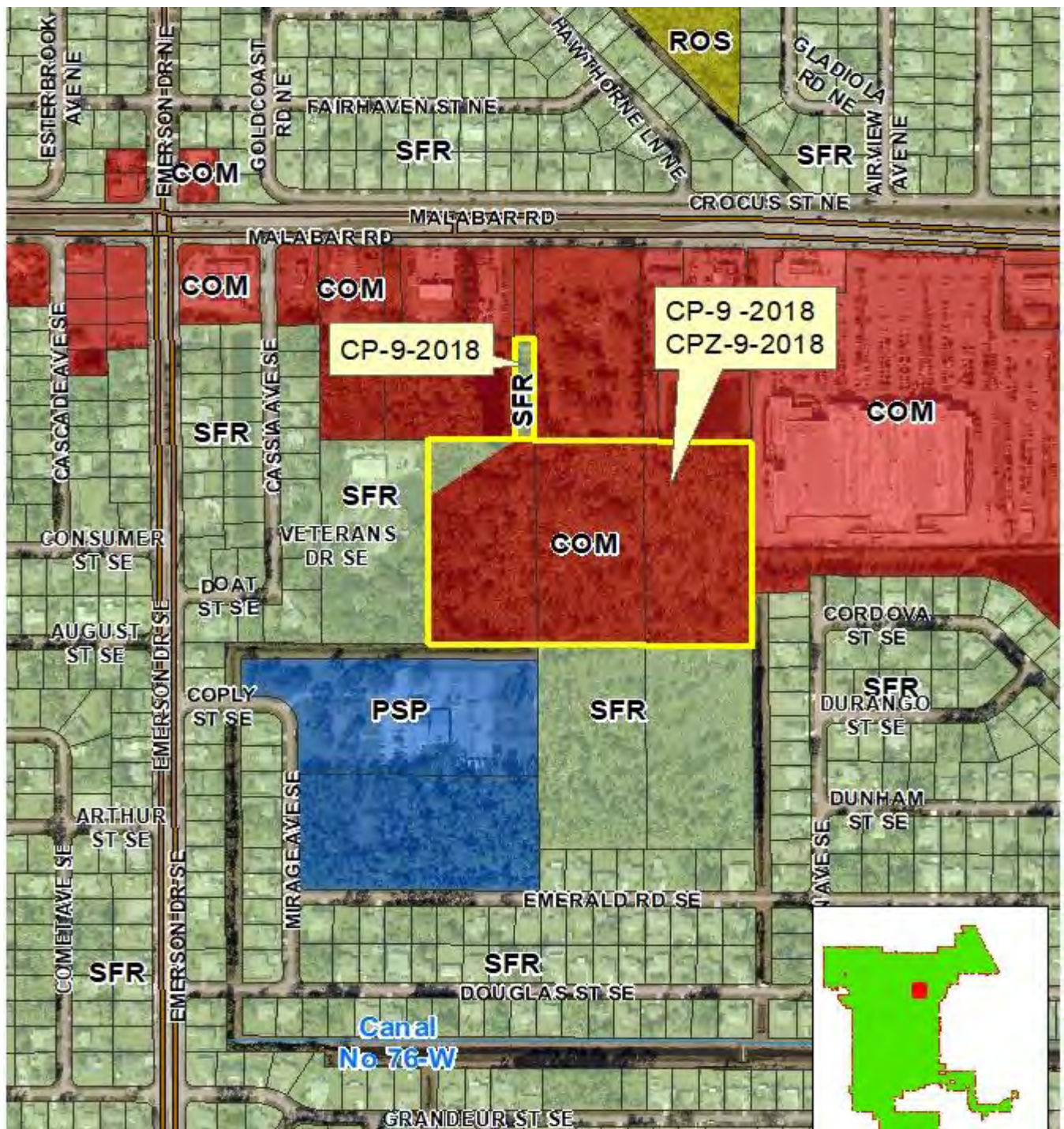
Current Zoning Classification

CC – Community Commercial

Map for illustrative purposes only. Not to be construed as binding or as a survey



Not to Scale



FUTURE LAND USE MAP CASE NO. CP-9-2018 / CPZ-9-2018

Subject Property

In the vicinity south of Malabar Rd SE and east of Cassia Av SE

Future Land Use Classification

COM – Commercial and SFR – Single-Family Residential

Map for illustrative purposes only. Not to be construed as binding or as a survey



Not to Scale



Land Development Division
120 Malabar Road SE
Palm Bay, FL 32907
321-733-3042
Landdevelopment@palmabayflorida.org

REZONING APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, between 8:30 a.m. and 5:00 p.m., Monday through Friday, to be processed for consideration by the Planning and Zoning Board. The application will then be referred by the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

1) NAME OF APPLICANT (Type or print) Rook at Palm Bay, LLC
ADDRESS 4828 Ashford Dunwoody Rd., Suite 400
CITY Atlanta STATE Georgia ZIP 30338
PHONE # 770-391-1233 FAX # 678-580-6889
E-MAIL ADDRESS moshe@crownhgroup.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION:
see attached

SECTION 5 TOWNSHIP 29 RANGE 37

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 15.1 +/- acres

4) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) CC

5) ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): RM-20

6) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY? NO

7) JUSTIFICATION FOR REZONING: provide mixed use of multi-family to accomodate existing commercial

8) PRESENT USE OF THE PROPERTY:
vacant

9) INTENDED USE OF PROPERTY: apartment complex

10) THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION:

☒ *\$600.00 Application Fee. Make check payable to "City of Palm Bay."

☒ Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)). The property map shall also be provided by CD or Memory Drive.

CITY OF PALM BAY, FLORIDA6

REZONING APPLICATION

PAGE 2 OF 2

- ✓ A listing of legal descriptions of all properties within a 500 foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This can be obtained for a fee from the Brevard County Planning and Zoning Department at 321-633-2060.)

✓ School Board of Brevard County School Impact Analysis Application (if applicable).

PENDING Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.

N/A WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE REZONING.

I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY, AND CERTIFY THAT ALL THE ANSWERS TO THE QUESTIONS IN SAID APPLICATION, AND ALL DATA AND MATTER ATTACHED TO/AND MADE A PART OF SAID APPLICATION ARE HONEST AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING REZONING APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant

Date 5/1/2018

Printed Name of Applicant

Mashe mambh

MGR

*NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY

LEGAL DESCRIPTION: (AREA SUBJECT TO REZONING)

PARCEL B:

THE EAST 1/2 OF THE SOUTH 1/2 OF LOT 30, SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST, FLORIDA INDIAN RIVER LAND COMPANY, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LESS AND EXCEPT ROAD RIGHT-OF-WAY.

PARCEL C:

THE SOUTHWEST 1/4 OF LOT 30, PLAT OF FLORIDA INDIAN RIVER LAND COMPANY, SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

PARCEL D-SOUTH:

THE EAST 1/2 OF THE SOUTH 1/2 OF LOT 29, FLORIDA INDIAN RIVER LAND COMPANY, SECTION 5, TOWNSHIP 29 SOUTH, RANGE 37 EAST, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LESS AND EXCEPT THE NORTH 33.0 FEET FOR ROAD RIGHT OF WAY.





CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
SPECIAL MEETING NO. 2018-07

Held on Wednesday, July 6, 2018, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Land Development Division, Palm Bay, Florida. The minutes are not a verbatim transcript but a brief summary of the discussions and actions taken at this meeting.

Mr. Wendall Stroderd called the meeting to order at approximately 7:00 p.m.

Mr. Woodrum led the Pledge of Allegiance to the Flag.

ROLL CALL:

| | | |
|--------------------------|---|---------|
| CHAIRPERSON: | Wendall Stroderd | Present |
| VICE CHAIRPERSON: | Philip Weinberg | Present |
| MEMBER: | Leeta Jordan | Present |
| MEMBER: | Khalilah Maragh | Present |
| MEMBER: | William Pezzillo | Present |
| MEMBER: | Rainer Warner | Present |
| MEMBER: | Thomas "Woody" Woodrum | Present |
| MEMBER: | Michele Quinn (School Board Appointee) | Absent |

CITY STAFF: Present were Ms. Elizabeth Beam, Assistant Growth Management Director; Mr. Christopher Balter, Planner II; Ms. Karen Black, Planner II; Ms. Chandra Powell, Recording Secretary; Mr. Rodney Edwards, Assistant City Attorney.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2018-06. As a correction, Mr. Weinberg noted that he had seconded the motion on page 1 to approve the minutes of 2018-05, and that he had made the motion on page 3 to approve Case CP-5-2018. Motion by Mr. Weinberg, seconded by Ms. Maragh to approve the minutes of 2018-06 as corrected. The motion carried with members voting unanimously.

Ms. Jordan asked about the site access. Mr. Spira stated that the access to the property would be off of Malabar Road. He submitted a conceptual layout of the site that would have commercial frontage and multifamily in the rear. He assured the board that the developer had a significant amount of experience with similar projects. Ms. Maragh noted Aldi Grocery Store and LA Fitness Club on the drawing. Mr. Spira explained that the businesses were pending based on the approval of the subject request.

The floor was opened and closed for public comments; there were no comments from the audience, and there was no correspondence in the file.

Mr. Warner inquired whether Malabar Road would be the sole access for the property. Mr. Spira indicated that this was correct, but that the traffic study could address further.

Mr. Stroderd asked whether the property owned by the applicant extended to Malabar Road. Mr. Spira confirmed that this was correct.

Motion by Mr. Weinberg, seconded by Ms. Maragh to submit Case CP-9-2018 to City Council for approval of a large scale Comprehensive Plan Future Land Use Map amendment from Commercial Use and Single Family Residential Use to Multiple Family Residential Use and Commercial Use, pursuant to Chapter 163, Florida Statutes. The motion carried with members voting as follows:

| | |
|--------------|-----|
| Mr. Stroderd | Aye |
| Mr. Weinberg | Aye |
| Ms. Jordan | Aye |
| Ms. Maragh | Aye |
| Mr. Pezzillo | Nay |
| Mr. Warner | Aye |
| Mr. Woodrum | Nay |

5. ♣CPZ-9-2018 – ROOK AT PALM BAY, LLC (JACK SPIRA, REP.)

Mr. Balter presented the staff report for Case CPZ-9-2018. The applicant had requested a zoning amendment from a CC, Community Commercial District to an RM-20, Multiple-Family Residential District. Staff recommended Case CPZ-9-2018 for approval, pursuant to all applicable City ordinances.

Mr. Jack Spira (representative for the applicant) stated that the subject request was being submitted in conjunction with Case CP-9-2018.

Mr. Warner asked if five apartment buildings were planned for the property. Mr. Spira stated that the project would have seven apartment buildings with approximately 252 units. Mr. Warner would have preferred an entire commercial proposal.

The floor was opened and closed for public comments; there were no comments from the audience, and there was no correspondence in the file.

Mr. Warner asked if the development was subject to a traffic study. Mr. Spira confirmed that this was correct.

Mr. Pezzillo inquired about the height of the complex. Mr. Spira stated that the buildings would be three-stories in height.

Motion by Ms. Jordan, seconded by Ms. Maragh to submit Case CPZ-9-2018 to City Council for approval of a zoning amendment from a CC, Community Commercial District to an RM-20, Multiple-Family Residential District, pursuant to all applicable City ordinances.

Mr. Weinberg was pleased with the proposal as the City needed more high-density development and commercial development specifically. Mr. Warner concurred that the proposal was a good project; however, he felt that continuing to usher in more residential traffic without addressing road issues was a perpetual concern. Mr. Weinberg stated that the project would play a part in increasing the tax base to help with roads. Mr. Woodrum commented that City Council should look into how beneficial residential taxes were versus commercial taxes. Ms. Maragh added that improving public transit would also be a solution.

A vote was called on the motion by Ms. Jordan, seconded by Ms. Maragh to submit Case CPZ-9-2018 to City Council for approval of a zoning amendment from a CC, Community Commercial District to an RM-20, Multiple-Family Residential District, pursuant to all applicable City ordinances. The motion carried with members voting as follows:

| | |
|--------------|-----|
| Mr. Stroder | Aye |
| Mr. Weinberg | Aye |
| Ms. Jordan | Aye |
| Ms. Maragh | Aye |
| Mr. Pezzillo | Aye |
| Mr. Warner | Aye |
| Mr. Woodrum | Nay |

6. CP-10-2018 – CITY OF PALM BAY (ECONOMIC DEVELOPMENT &
EXTERNAL AFFAIRS DEPARTMENT)

Ms. Beam presented the staff report for Case CP-10-2018. The applicant had requested a small scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use. Staff recommended Case CP-10-2018 for approval, pursuant to Chapter 163, Florida Statutes. The property was deemed City surplus land.

The floor was opened for public comments.

Mr. Randel Stong (resident at Gerry Road SW) spoke against the request. He and his neighbors were promised that the subject site would be a park, and there was no other park site within a mile. He stated that the property was not amenable to subdivision as the only access to the site was from Gerry Road.

Mr. Don Boerema (resident at Sea Crest Avenue SW) spoke against the request. He had relocated to the area with due diligence that the subject property was a park site. There were four to five streets on which approximately 20 children in the neighborhood currently played.

The floor was closed for public comments, and there was no correspondence in the file.

Motion by Mr. Pezzillo, seconded by Mr. Weinberg to submit Case CP-10-2018 to City Council for approval of a small scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use, pursuant to Chapter 163, Florida Statutes.

ORDINANCE NO. 2018-29

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE ZONING ORDINANCE OF THE CITY OF PALM BAY BY CHANGING THE ZONING OF PROPERTY FROM CC (COMMUNITY COMMERCIAL DISTRICT) TO RM-20 (MULTIPLE-FAMILY RESIDENTIAL DISTRICT); WHICH PROPERTY IS LOCATED IN THE VICINITY SOUTH OF MALABAR ROAD AND EAST OF CASSIA AVENUE, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR A CHANGE OF THE ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Zoning Ordinance of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the rezoning of property from CC (Community Commercial District) to RM-20 (Multiple-Family Residential District), being legally described as follows:

Tax Parcels 9, 5, and 6, of the Public Records of Brevard County, Florida; Section 5, Township 29S, Range 37E; containing 15.1 acres, more or less.

SECTION 2. The Zoning Map of the City of Palm Bay is hereby revised to reflect this amendment.

SECTION 3. The provisions within this ordinance shall take effect immediately upon the enactment of Ordinance No. 2018-28.

Read in title only at Meeting No. 2018- , held on , 2018; and read in title only and duly enacted at Meeting No. 2018- , held on , 2018.

ATTEST:


William Capote, MAYOR

Terese M. Jones, CITY CLERK



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Comprehensive Plan Amendment Request – The City of Palm Bay
(Economic Development & External Affairs Department)

The City of Palm Bay (Economic Development & External Affairs Department) has submitted an application for a large scale Comprehensive Plan Future Land Use Map Amendment to change from the ROS - Recreation and Open Space designation to SFR - Single Family Residential. The City has deemed the property surplus with no plans for future development.

REQUESTING DEPARTMENT:

Growth Management

STAFF RECOMMENDATION:

Motion to approve Case CP-10-2018, pursuant to Chapter 163, Florida Statutes.

Planning and Zoning Board Recommendation:

Approval of the request by a vote of 5 to 2.

Attachments: 1) Case No. CP-10-2018
2) Ordinance

EB/cp/ab



LAND DEVELOPMENT DIVISION
120 MALABAR ROAD SE
PALM BAY, FL 32907
T: 321-733-3042 F: 321-953-8920

STAFF REPORT
PREPARED BY:
Elizabeth Beam, AICP
Assistant Growth Management Director

CASE NUMBER
CP-10-2018

APPLICANT/PROPERTY OWNER
City of Palm Bay (Economic Development & External Affairs Department)

PLANNING & ZONING BOARD HEARING DATE
July 11, 2018

PROPERTY LOCATION/ADDRESS
Port Malabar Unit 36, Tract B

SUMMARY OF REQUEST

The City of Palm Bay is seeking a small scale Comprehensive Plan Future Land Use Map Amendment to change from the ROS-Recreation and Open Space designation to SFR – Single Family Residential. The City has deemed the property surplus with no plans for future development.

| EXISTING ZONING | EXISTING LAND USE | SITE IMPROVEMENTS | SITE ACREAGE | SURROUNDING ZONING & LAND USE |
|-------------------------------------|--------------------------------|-------------------|--------------|--|
| RS-2 - Single Family Residential | ROS - Recreation Open Space | Undeveloped | 3.25 | N: RS-2, Single Family Residential; Single family homes E: RS-2, Single Family Residential; Single family homes S: RS-2, Single Family Residential; Canal No. 18 W: RS-2, Single Family Residential; Single family home and vacant land |

PROPERTY HISTORY

The subject property is currently undeveloped. The property is under contract for sale contingent on the successful adoption of a Comprehensive Plan Future Land Use Map amendment by City Council prior to the sale of the property. The buyer intends to subdivide the property upon retirement into parcels that meet the RS-2 zoning district requirements. The buyer is not a builder.

COMPATIBILITY with the COMPREHENSIVE PLAN

The current nature of surrounding land use designations is single family residential. The proposed land use amendment would be considered compatible with the surrounding land uses.

COMPATIBILITY with the CODE OF ORDINANCES

The request would require successful adoption of a Comprehensive Plan Future Land Use Map amendment for the property from the current ROS - Recreation Open Space to SFR – Single Family Residential to allow residential use as the principle use. Any future subdivision of the property would require approval subject to the requirements of the City's applicable Land Development Code at the time of submittal.

STAFF RECOMMENDATION:

TRANSMIT ☐

APPROVE ☒

APPROVE WITH CONDITIONS ☐

DENY ☐

ANALYSIS:

Per Section 183.01(B), the purpose and intent of the Comprehensive Plan is to encourage the most appropriate use of land and resources to promote the health, safety, and welfare.

1. Future Land Use Element

The proposed Future Land Use (FLU) change would be considered compatible with the surrounding land uses and would not adversely impact the efficient distribution of compatible land uses.

2. Capital Improvements Element

Water and sewer infrastructure is currently unavailable at the subject property. Residential lots not served by public sewer shall be of sufficient size to accommodate a septic tank and leaching field. State and local health regulations and standards, as well as soil conditions, shall control the lot size in these circumstances. A private well for potable water supply would be required.

3. Coastal Management Element

The subject property is not located within the Coastal High Hazard Area.

4. Conservation Element

The environmental character of the City is maintained through conservation, appropriate use, and protection of natural resources.

Protected Species: The subject property is not located with any of the Florida scrub jay polygons identified in the City's Habitat Conservation Plan (HCP). No other protected species are known to inhabit the subject property. Any protected species that would be found on the subject property would need to be mitigated for as required by State and Federal regulations and per Comprehensive Plan Policy CON-1.7B.

Recreation: The proposed FLU amendment would not exceed the existing park land or recreational level of service standards for the planning area.

5. Housing Element

The proposed FLU amendment does not adversely impact the supply and variety of safe, decent, attractive and affordable housing within the City.

6. Infrastructure Element

The City evaluates present and future water, sewer, drainage, and solid waste and assesses the ability of infrastructure to support development.

Utilities: The FLU change will not cause level of service to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. Currently water and sewer are unavailable at the subject property. Solid waste collection is provided by Waste Management Inc.

Drainage: If developed as a minor subdivision, a drainage plan, if required, must be prepared in accordance with current regulations and approved by the City along with appropriate outside agencies including the St. Johns River Water Management District. The proposed stormwater management system will be reviewed and approved by the City during the site plan review process if the site is developed as a small subdivision

Any development of the subject property would alter the present natural site conditions as the property is currently undeveloped and therefore, would have some impact. The property is located within Flood Zone X, Area of Minimal Flood Hazard, which is outside the Special Flood Hazard Area (100-year flood) and the 500-year flood zone.

Any future development may require establishment of a drainage and utility easements within the parcel.

7. Intergovernmental Coordination Element

Public Schools: The proposed FLU amendment to SFR – Single Family Residential for a small size (3.25 acre) parcel is anticipated to have no adverse impact to the public-school system. Any future subdivision would require school concurrency.

8. Transportation Element

The proposed FLU amendment to SFR to allow residential use as the principle use will not negatively impact the surrounding roadway network.

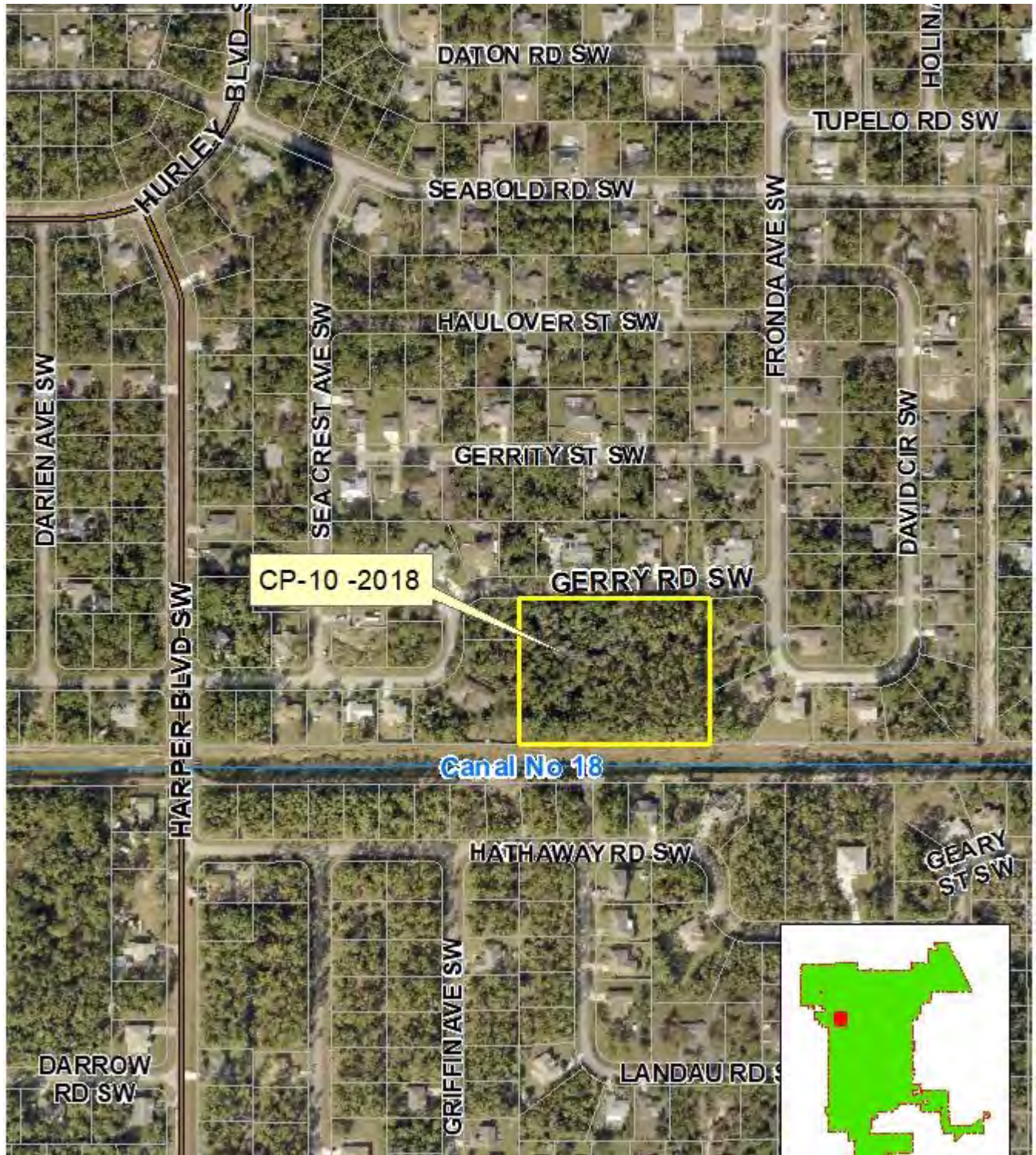
SUBDIVISION:

Any future subdivision of the property would require approval subject to the requirements of the City's applicable Land Development Code at the time of submittal.

STAFF RECOMMENDATION:

The proposed Comprehensive Plan amendment does not adversely affect the goals, policies, and objectives of the City's Plan. The Plan is composed of the elements discussed above and the FLU element is one element that should remain internally consistent with the remaining elements of the comprehensive plan. The FLU map alone does not determine the use of a parcel of land, rather, all elements of the comprehensive plan must be applied to determine use.

Motion to approve Case CP-10-2018, pursuant to Chapter 163, Florida Statutes.



AERIAL LOCATION MAP CASE NO. CP-10-2018

Subject Property

South of and adjacent to Gerry Rd. SW and North of Canal No. 18

Map for illustrative purposes only. Not to be construed as binding or as a survey



Not to Scale



ZONING MAP CASE NO. CP-10-2018

Subject Property

South of and adjacent to Gerry Rd. SW and north of Canal No. 18

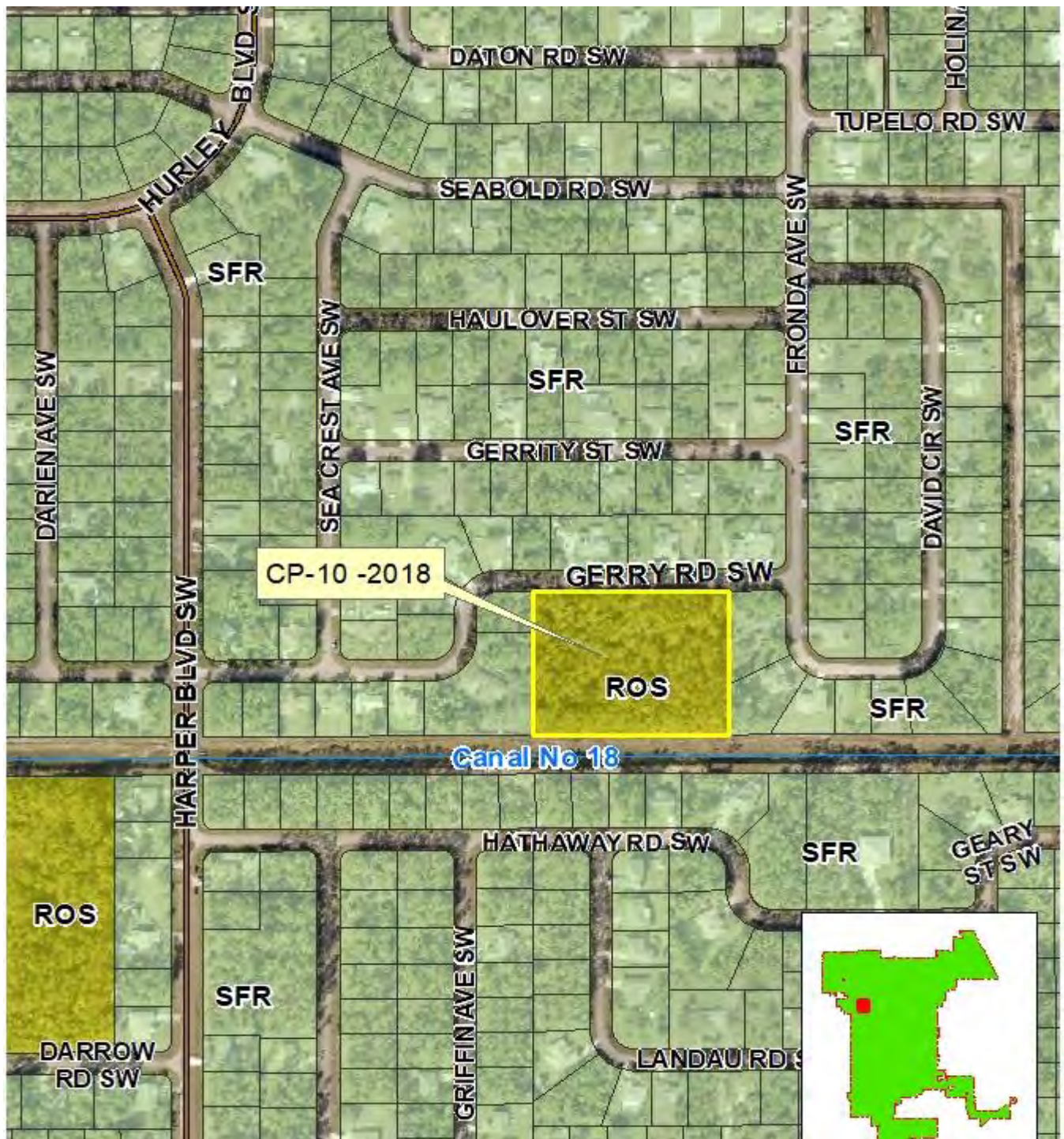
Current Zoning Classification

RS-2 – Single Family Residential

Map for illustrative purposes only. Not to be construed as binding or as a survey



Not to Scale



FUTURE LAND USE MAP CASE NO. CP-10-2018

Subject Property

South of and adjacent to Gerry Rd. SW and north of Canal No. 18

Future Land Use Classification

ROS – Recreational Open Space

Map for illustrative purposes only. Not to be construed as binding or as a survey



Not to Scale



Land Development Division
120 Malabar Road SE
Palm Bay, FL 32907
321-733-3042
Landdevelopment@palmabayflorida.org

COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, prior to 5:00 p.m. on the first day of the month to be processed for consideration by the Planning and Zoning Board the following month. The application will then be referred to the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

1) NAME OF APPLICANT (Type or print) CITY OF PALM BAY

ADDRESS 120 MALABAR RD SE

CITY PALM BAY STATE FL ZIP 32907

PHONE # 321-409-7187 FAX # 321-848-1288

E-MAIL ADDRESS Andy.Anderson@palmabayflorida.org

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

Plat Book/Page:0019/0082 Subdivision Name:Port Malabar Unit 36 Land Description:Port Malabar Unit 36 Tract B
MARKETED AS XXX GERRY ROAD SW, PALM BAY, FL 32908

SECTION 03 TOWNSHIP 29 RANGE 36

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 3.25 ACRES

4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): ROS - RECREATION AND OPEN SPACE

5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE:
SFR - SINGLE FAMILY RESIDENTIAL

6) PRESENT USE OF THE PROPERTY: VACANT LAND

7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: NO

8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:
NO

(If no rezoning application is filed, the City must assume the maximum impact permissible by the land use classification desired. Impacts to transportation facilities, water and sewer facilities, drainage, recreation facilities, and solid waste must be examined and justified before acceptance by the Florida Department of Economic Opportunity and the City of Palm Bay.)

CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION
PAGE 2 OF 3

- 9) JUSTIFICATION FOR CHANGE (attach additional sheets containing supporting documents and evidence if necessary):

PROPERTY IS CURRENTLY FOR SALE AND UNDER CONTRACT. CONTRACT IS CONTINGENT UPON FLU
CHANGE.

- 10) SPECIFIC USE INTENDED FOR PROPERTY:

BUYER INTENDS TO SUBDIVIDE PROPERTY UPON RETIREMENT INTO PARCEL SIZES THAT ARE STANDARD
FOR THE SURROUNDING NEIGHBORHOOD. BUYER IS NOT A BUILDER. THEY INTEND TO SIMPLY
SUBDIVIDE AND SELL PARCELS AS VACANT LAND.

- 11) THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP:

_____ *Application Fee. Make check payable to "City of Palm Bay."

☐ **Large Scale Map Amendment** (10 acres or more) \$1,600.00 ☐ **Text Amendment** (Comp. Plan) \$1,600.00

☐ **Small Scale Map Amendment** (Less than 10 acres) \$1,000.00

_____ Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)).

_____ A listing of legal descriptions (for land use amendments) of all properties within a 500 foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This can be obtained for a fee from the Brevard County Planning and Zoning Department at 321-633-2060.)

_____ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.

_____ WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT.

**CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION
PAGE 3 OF 3**

I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE LOCAL PLANNING AGENCY, AND CERTIFY THAT ALL THE ANSWERS TO THE QUESTIONS IN SAID APPLICATION, AND ALL DATA AND MATTER ATTACHED TO AND MADE A PART OF SAID APPLICATION ARE HONEST AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant

Andy Anderson

Digitally signed by Andy Anderson
DN: dc=org, dc=palmbayflorida, ou=Economic
Development & External Affairs, cn=Andy Anderson
Date: 2018.06.05 09:04:24 -04'00'

Date

6/5/2018

Printed Name of Applicant

Andy Anderson

*NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
SPECIAL MEETING NO. 2018-07

Held on Wednesday, July 6, 2018, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Land Development Division, Palm Bay, Florida. The minutes are not a verbatim transcript but a brief summary of the discussions and actions taken at this meeting.

Mr. Wendall Stroderd called the meeting to order at approximately 7:00 p.m.

Mr. Woodrum led the Pledge of Allegiance to the Flag.

ROLL CALL:

| | | |
|--------------------------|---|---------|
| CHAIRPERSON: | Wendall Stroderd | Present |
| VICE CHAIRPERSON: | Philip Weinberg | Present |
| MEMBER: | Leeta Jordan | Present |
| MEMBER: | Khalilah Maragh | Present |
| MEMBER: | William Pezzillo | Present |
| MEMBER: | Rainer Warner | Present |
| MEMBER: | Thomas "Woody" Woodrum | Present |
| MEMBER: | Michele Quinn (School Board Appointee) | Absent |

CITY STAFF: Present were Ms. Elizabeth Beam, Assistant Growth Management Director; Mr. Christopher Balter, Planner II; Ms. Karen Black, Planner II; Ms. Chandra Powell, Recording Secretary; Mr. Rodney Edwards, Assistant City Attorney.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2018-06. As a correction, Mr. Weinberg noted that he had seconded the motion on page 1 to approve the minutes of 2018-05, and that he had made the motion on page 3 to approve Case CP-5-2018. Motion by Mr. Weinberg, seconded by Ms. Maragh to approve the minutes of 2018-06 as corrected. The motion carried with members voting unanimously.

| | |
|--------------|-----|
| Mr. Stroder | Aye |
| Mr. Weinberg | Aye |
| Ms. Jordan | Aye |
| Ms. Maragh | Aye |
| Mr. Pezzillo | Aye |
| Mr. Warner | Aye |
| Mr. Woodrum | Nay |

6. CP-10-2018 – CITY OF PALM BAY (ECONOMIC DEVELOPMENT &
EXTERNAL AFFAIRS DEPARTMENT)

Ms. Beam presented the staff report for Case CP-10-2018. The applicant had requested a small scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use. Staff recommended Case CP-10-2018 for approval, pursuant to Chapter 163, Florida Statutes. The property was deemed City surplus land.

The floor was opened for public comments.

Mr. Randel Stong (resident at Gerry Road SW) spoke against the request. He and his neighbors were promised that the subject site would be a park, and there was no other park site within a mile. He stated that the property was not amenable to subdivision as the only access to the site was from Gerry Road.

Mr. Don Boerema (resident at Sea Crest Avenue SW) spoke against the request. He had relocated to the area with due diligence that the subject property was a park site. There were four to five streets on which approximately 20 children in the neighborhood currently played.

The floor was closed for public comments, and there was no correspondence in the file.

Motion by Mr. Pezzillo, seconded by Mr. Weinberg to submit Case CP-10-2018 to City Council for approval of a small scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use, pursuant to Chapter 163, Florida Statutes.

Mr. Weinberg reminded the board that City surplus properties were part of the General Development Corporation Settlement Agreement to fund road repairs. Ms. Maragh informed the audience that the property buyer was an individual and not a developer. Mr. Warner commented that he would prefer one home to be built on City surplus properties when three acres or less in size.

Mr. Stroderd wanted to know if the board could stipulate the amount of homes allowed on the property. Mr. Edward advised the board that the stipulation would be in error.

A vote was called on the motion by Mr. Pezzillo, seconded by Mr. Weinberg to submit Case CP-10-2018 to City Council for approval of a small scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use, pursuant to Chapter 163, Florida Statutes. The motion carried with members voting as follows:

| | |
|--------------|-----|
| Mr. Stroderd | Aye |
| Mr. Weinberg | Aye |
| Ms. Jordan | Aye |
| Ms. Maragh | Aye |
| Mr. Pezzillo | Aye |
| Mr. Warner | Nay |
| Mr. Woodrum | Nay |

7. T-14-2018 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Ms. Beam presented the staff report for Case T-14-2018. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to modify Section 185.038, RM-20 - Multiple-Family Residential District, and Section 185.140, Off-Street Parking and Traffic Circulation. Staff recommended Case T-14-2018 for approval.

Ms. Beam announced that the Public Works Department had since provided revised language to the amendment regarding pervious pavement requirements.

CORRESPONDENCE

Office of The
JUL 27 2018
City Clerk

July 27, 2018

Planning and Zoning Board
City Council
c/o Land Development Division
City of Palm Bay
120 Malabar Road SE
Palm Bay, Florida 32907

Re: Case No. CP-10-2018

To the City Council:

I am writing concerning the rezoning application for Tract B, Port Malabar Unit 36, Section 3, Township 29, Range 36, Brevard County, Florida, from Recreation and Open Space to Single Family Residential Use.

I am an interested property owner, as defined, as I live directly across Gerry Road from the referenced property. As I understand from attending the Planning and Zoning meeting on July 11, the City of Palm Bay already has a buyer for the property, a builder who may want to subdivide the land.

Although no site plan was discussed at that meeting, my concerns are threefold:

Drainage. Gerry Road is very poorly drained at present, and a moderate rainfall of an inch or so results in standing water at the corner of Gerry Road and Fronda for days at a time. Development of this property should not be allowed to exacerbate this situation without being addressed by the developer.

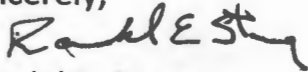
Traffic. Gerry Road is very lightly traveled, and has no sidewalks. Presently, children play in the street, people walk their dogs, and ride bicycles. Development of the property can only greatly increase the traffic load on Gerry Road.

Access. The property is bordered on the south by Melbourne-Tillman Canal No. 18, on the east and west by private residences and property, and to the north by Gerry Road. The only practical access to the property would be construction of an

access road directly across the street from my bedroom windows, at a distance of approximately 100 feet. Headlights from vehicles exiting the property at night would be extremely disruptive.

I hope that the City Council and Planning and Zoning will take these concerns into consideration in any Site Plan Review.

Sincerely,

A handwritten signature in black ink that reads "Randel E Stong". The signature is written in a cursive style with a large, stylized "R" and "S".

Randel E. Stong
1221 Gerry Road SW
Palm Bay, FL 32908

Phone 321-725-2678
Email restong@cfl.rr.com

ORDINANCE NO. 2018-30

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 183, COMPREHENSIVE PLAN REGULATIONS, SECTION 183.01, COMPREHENSIVE PLAN, SUBSECTION (D), ADOPTION OF FUTURE LAND USE MAP, BY AMENDING FUTURE LAND USE MAP SERIES NO. 2; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Palm Bay has designated the Planning and Zoning Board as its Local Planning Agency and said Local Planning Agency held an adoption hearing on an amendment to the Comprehensive Plan on July 11, 2018, after public notice, and

WHEREAS, the City Council of the City of Palm Bay, pursuant to Chapter 163, Florida Statutes, held an adoption hearing on an amendment to the Comprehensive Plan on August 2, 2018, after public notice, and

WHEREAS, the City Council of the City of Palm Bay desires to adopt said small scale amendment to the Comprehensive Plan of the City of Palm Bay.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Comprehensive Plan of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the change in land use of property from Recreation and Open Space Use to Single Family Residential Use, which property is legally described as follows:

Tract "B", Port Malabar Unit 36, according to the plat thereof as recorded in Plat Book 19, Page 88, of the Public Records of Brevard County, Florida; Section 3, Township 29S, Range 36E; containing 3.25 acres, more or less.

SECTION 2. The Future Land Use Map Series Map No. 2 is hereby changed to reflect this amendment.

SECTION 3. All staff report conditions and limitations shall be met and those conditions and limitations shall be made a part of the Comprehensive Plan.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 5. The provisions within this ordinance shall take effect thirty-one (31) days from the enactment date.

Read in title only and duly enacted at Meeting No. 2018- , held on , 2018.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

*Only one reading required pursuant to Chapter 163, Florida Statutes.

Reviewed by CAO: _____


Applicant: City of Palm Bay
Case No.: CP-10-2018

cc: (date) Applicant
Case File
Brevard County Property Appraiser's Office (via michelle.lastinger@bcpao.us)



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Planned Unit Development Request – Holiday Builders (Chris McCurdy)

Holiday Builders (Chris McCurdy) has submitted an application for Tax Parcel 4.0, Section 29, Township 28 South, Range 37 to allow for Final Development Plan approval for Sabal Key PUD consisting of a 40-lot single family residential development.

REQUESTING DEPARTMENT:

Growth Management

STAFF RECOMMENDATION:

Case PUD-12-2018 is recommended for approval, subject to the staff comments contained in the staff report.

Planning and Zoning Board Recommendation:

Denial of the request by a vote of 4 to 3.

Attachment: 1) Case No. PUD-12-2018

EB/cp/ab



LAND DEVELOPMENT DIVISION
120 MALABAR ROAD SE
PALM BAY, FL 32907
T: 321-733-3042 F: 321-953-8920

STAFF REPORT
PREPARED BY:
Christopher Balter
Planner II

CASE NUMBER
PUD-12-2018

APPLICANT/PROPERTY OWNER
Holiday Builders (Chris McCurdy)

PLANNING & ZONING BOARD HEARING DATE
July 11, 2018

PROPERTY LOCATION/ADDRESS
Tax Parcel 4.0, Section 29, Township 28 South, Range 37

SUMMARY OF REQUEST

Final Development Plan approval for Sabal Key PUD consisting of a 40-lot single family residential subdivision.

| EXISTING ZONING | EXISTING LAND USE | SITE IMPROVEMENTS | SITE ACREAGE | SURROUNDING ZONING & LAND USE |
|---|-------------------------------|-------------------|-----------------|---|
| IU, Institutional use and Planned Unit Development ("PUD") PUD-42-2017 | Single-Family Residential Use | Vacant Land | 10.73 acres +/- | N: IU, Institutional Use; Riviera Church of Christ Congregational E: RS-2, Single Family Residential District; Single Family Homes S: RS-2, Single Family Residential District; Single Family Homes W: RM-15, Single, Two- and Multi-Family Residential; Riviera Key PUD and IU, Institutional Use; Riviera Park |

PROPERTY HISTORY

Click or tap here to enter text. The subject property is a vacant parcel of land that was the southern half of the Riviera Church property. The church deemed the site as excess land and is in the process of conveying the property to Holiday Builders. The land is designated as Single Family Residential Use on the Comprehensive Plan Future Land Use Map, therefore a map amendment is not needed. The property received preliminary PUD approval on November 16, 2017 (PUD-42-2017).

COMPATIBILITY with the COMPREHENSIVE PLAN

The request is compatible with the underlying future land use designation

COMPATIBILITY with the CODE OF ORDINANCES

Yes, provided the items identified in this report are met.

STAFF RECOMMENDATION:

TRANSMIT ☐

APPROVE ☐

APPROVE WITH CONDITIONS ☐

DENY ☐

ANALYSIS:

1. Holiday Builders is requesting Final Planned Development Plan approval for a 40-lot subdivision to be named Sabal Key PUD.
2. Sabal Key PUD will contain a looped road that allows for all 40 lots to directly access the internal roadway, which is designed to meet the city's construction standards. The internal roadway will connect to Riviera Drive at two separate locations. No lots will have direct access and are physically separated from Riviera Drive by three HOA-maintained storm water management tracts.
3. The water and sewer lines will be extended from existing lines on Riviera Drive. City water and sewer will loop the block and be provided to each lot. Sabal Key PUD will use the existing sanitary sewer lift station on the west side of Riviera Drive. Four storm water retention ponds shall be located in the development.
4. Typical lots within Sabal Key PUD are 50' x 125' and the minimum sized home will be 1200 square feet. The open space requirements of the PUD Ordinance have been met by using a combination of open space, buffer lands and the pond tract. No amenity center is proposed with the Final Development Plan.
5. In order to receive Final Planned Development Plan approval, the proposal must meet the requirements of Section 185.067 of the City of Palm Bay's Code of Ordinances. Upon review, it appears that the request is in conformance with the applicable requirements of this section, subject to the following items being addressed prior to approval of the construction plans and recordation of the plat:
 - A. The boundary and title opinion shall be approved by the City Surveyor.
 - B. All applicable outside agency permits must be obtained (St. Johns, Melbourne-Tillman, Florida Department of Environmental Protection, Brevard County, etc.).
 - C. A Traffic Study is required to determine any impacts to the adjacent road network and any improvements necessary to mitigate such impacts.
 - D. The road name shall be submitted to Brevard E-9-1-1 for review.
 - E. Sabal palm trees shall not be planted behind Lot 11.
 - F. Consider the need for a pedestrian actuated signal and crosswalk at the project's southern entrance to allow for safe and convenient access to Riviera Park.
 - G. The developer and project engineer shall coordinate with the City's Public Works Department during design and permitting to maintain school pedestrian traffic during construction.
 - H. Prior to the issuance of any building permits, the Construction Plans must be granted administrative staff approval along with the final plat approval from the city surveyor.

STAFF RECOMMENDATION:

Case No. PUD-12-2018 is recommended for approval, subject to the staff comments contained in this report.



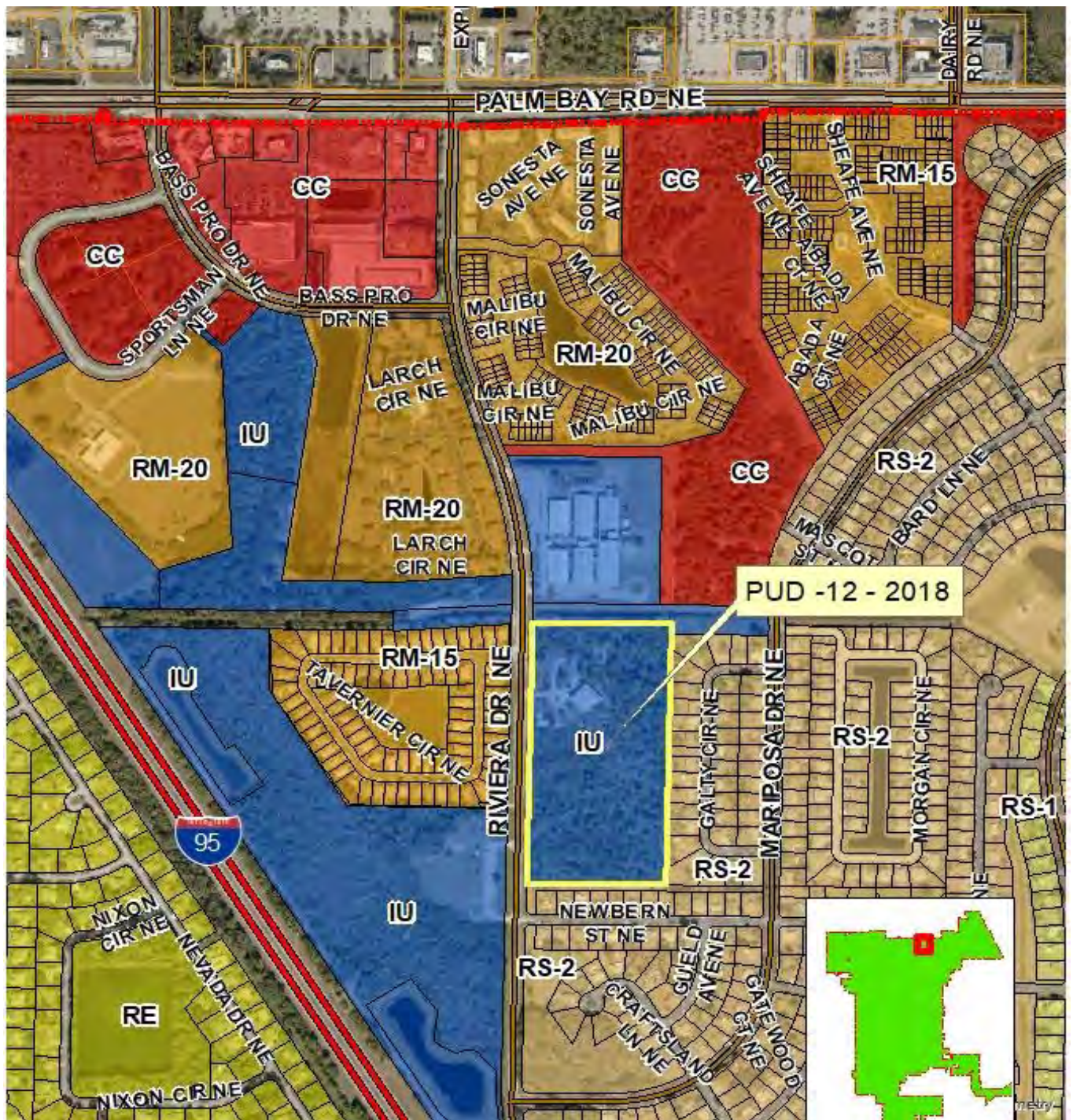
AERIAL LOCATION MAP CASE NO. PUD-12-2018

Subject Property East of and adjacent to Riviera Dr. NE, in the vicinity north of Newbern St. NE, Palm Bay



Not to Scale

Map for illustrative purposes only. Not to be construed as binding or as a survey



ZONING MAP CASE NO. PUD-12-2018

Subject Property East of and adjacent to Riviera Dr. NE, in the vicinity north of Newbern St. NE, Palm Bay

Current Zoning Classification
IU – Institutional Use

Map for illustrative purposes only. Not to be construed as binding or as a survey



Not to Scale



FUTURE LAND USE MAP CASE NO. PUD-12-2018

Subject Property East of and adjacent to Riviera Dr. NE, in the vicinity north of Newbern St. NE, Palm Bay

Future Land Use Classification
SFR - Single Family Residential

Map for illustrative purposes only. Not to be construed as binding or as a survey



Not to Scale



| OWNER | ENGINEER |
|--|--|
| RIVERA-SINTE CHURCH OF CHRIST, INC. 431 RIVERA DRIVE MILWAUKEE, WI 53205 | MIRI ENGINEERING 1205 EAU CLAIRE BLVD., UNIT 1 MILWAUKEE, WI 53204 371-115-1110 |
| <u>APPLICANT</u> | |
| DONALD MCDUFFY 100 CALY BULDER 220 N. EAU CLAIRE BLVD MILWAUKEE, WI 53005 | |
| <u>TAX PARCEL ID NUMBER(S)</u> | <u>TAX ACCOUNT NO.</u> |
| 29-37-29-00-4 | 293050 |
| <u>ZONING</u> | <u>LAND USE</u> |
| SEMPRO PROPOSED: RUD | SEMPRO SINGLE FAMILY RESIDENTIAL |
| <u>SITE AREA DATA</u> | |
| <u>SITE</u> | ≈ 487.57 SF ≈ 10.73 Ac. ≈ 100.00 % |
| <u>LOTS</u> | ≈ 268.28 SF ≈ 6.10 Ac. ≈ 57.66 % |
| <u>ADJACENT ROAD</u> | ≈ 76.74 SF ≈ 0.08 Ac. ≈ 1.58 % |
| <u>PROPOSED SIDEWALK</u> | $\approx 1,158.59$ SF ≈ 0.21 Ac. ≈ 1.19 % |
| <u>PROPOSED IMPROVEMENT AREA</u> | ≈ 146.76 SF ≈ 3.78 Ac. ≈ 1.74 % |

- | PLANNED LAND DEVELOPMENT NOTES | | | |
|--------------------------------|--|--------------------------------|------------------|
| 1 | NO BUILDING PARKING LOTS OR OTHER STRUCTURES MAY BE LOCATED WITHIN THE PERIMETER SETBACK AREA HOWEVER, SWIMMING POOLS AND OTHERS MAY BE PERMITTED SUBJECT TO THE NORMAL RESIDENTIAL SETBACK REQUIREMENTS | 2-20.17.07.01 = 23.62.50.01 | 57.8% = 67.6% |
| 2 | WITHIN THE FUG ALL UTILITIES LOCATED, BUT NOT LIMITED TO, TELEPHONE, CABLE, GAS AND DRINKING WATER, SHALL BE INSTALLED UNDERGROUND | | |
| 3 | THE MINIMUM REQUIREMENTS FOR STREETS OF ROADS, SIDEWALKS, DRIVEWAYS, UTILITIES AND DRINKING WATER, SHALL BE IN COMPLIANCE WITH THE REQUIREMENTS OF THE CITY OF PALM BEACH SUBDIVISION REGULATIONS | | |
| 4 | ALL DEVELOPERS SHALL BE IN ACCORDANCE WITH CHAPTER 175 OF THE LAND DEVELOPMENT REGULATION | | |
| 5 | ALL WALLS AND FENCES SHALL MEET ALL THE REQUIREMENTS OF CHAPTER 115 OF THE LAND DEVELOPMENT REGULATION | | |
| 6 | ALL FENCES SHALL MEET ALL THE REQUIREMENTS OF CHAPTER 185 OF THE LAND DEVELOPMENT REGULATIONS | | |
| 7 | LANDSCAPING SHALL MEET ALL THE REQUIREMENTS OF CHAPTER 180 OF THE | | |

| P.U.D. STANDARDS | | |
|--|-----------|-------------|
| TRACT NUMBER | REQUIRED | PROVIDED |
| DEVELOPMENT SIZE | 3.6 ACRES | 10.73 ACRES |
| DESCRIPTION | | |
| <p>THE SUBJECT PROPERTY IS A 10.73 ACRE SITE LOCATED ON THE EAST SIDE OF RIVERA DRIVE APPROXIMATELY 0.73 MILES SOUTH OF PALM BLVD. ROAD IN PALM BLVD. FLOW. THE SUBJECT PROPERTY IS PART OF A LARGER PARCEL, 28-37-20-04-01. THE PROJECT WILL BE DEVELOPED AS A 40 LOT SINGLE FAMILY SUBDIVISION PER THE CITY OF PALM BEACH PLANNED UNIT DEVELOPMENT (P.U.D.) ZONING REGULATIONS. THE ENTRANCE WILL BE LOCATED ON RIVERA DRIVE APPROXIMATELY 700 FEET SOUTH OF THE ENTRANCE TO RIVERA UNITED CHURCH OF CHRIST.</p> | | |

| <u>PLANNED UNIT DEVELOPMENT STANDARDS</u> | | |
|--|----------------------------------|------------------|
| DEVELOPMENT STANDARD | REQUIRED | PROVIDED |
| DEVELOPMENT SIZE | 6 ACRES MINIMUM | 10.73 ACRES |
| RESIDENTIAL DENSITY | 3 UNITS PER ACRE MAXIMUM | 4 UNITS PER ACRE |
| RECREATION/OPEN SPACE | 2.0 AC. / 20% OF GROSS AREA/ACRE | 3.15 AC. (29.3%) |
| FRONT YARD SETBACK | 5 FEET | 20 FEET |
| SIDE SETBACK | 3 FEET | 20 FEET |
| BUILDING ELEVATION | 20 FEET FROM ROW MINIMUM | 20 FEET |
| BUILDING SEPARATION (1-STORY ONLY (LESS)) | 10 FEET | 10 FEET |
| BUILDING SEPARATION (2-STORY MINIMUM) | 10 FEET | 10 FEET |
| BUILDING SEPARATION (4-STORY) | 20 FEET | N/A |
| FLOOR AREA PER UNIT | NO SQUARE FOOT (N/A) | 100 SQUARE FEET |
| PARKING | 2 SPACES PER LOT | 2 SPACES |

| TRACT | USE | % CREDITED TOWARDS OPEN SPACE | OPEN SPACE CREDIT | % OF OPEN SPACE AREA | OWNERSHIP & MAINTENANCE RESPONSIBILITY | WHEN CONSTRUCTED | |
|-------|-------------------------------|-------------------------------|-------------------|----------------------|--|------------------|--------------|
| A | RECREATION/OPEN SPACE | 0.281 | 75 | 0.371 | 1.51 | HQA | BY 1917 C.G. |
| B | OPEN SPACE | 0.834 | 100 | 0.834 | 7.77 | HQA | BY 1917 C.G. |
| C | RECREATION/OPEN SPACE/UTILITY | 0.852 | 75 | 0.634 | 6.10 | HQA | BY 1917 C.G. |
| D | OPEN SPACE/RECREATION/UTILITY | 0.858 | 100 | 0.858 | 4.37 | HQA | BY 1917 C.G. |
| E | RECREATION/OPEN SPACE | 0.307 | 75 | 0.230 | 1.09 | HQA | BY 1917 C.G. |
| F | OPEN SPACE | 0.177 | 100 | 0.177 | 1.65 | HQA | BY 1917 C.G. |

| FACILITY | | 2.99 | 2.84 | 24.35 | HQA | BY 1ST C.D. | |
|----------|-------------------------------|------------|----------------------------------|-------------------------|-------------------------|--|---------------------|
| BASEMENT | USE | TRACT AREA | % CREDITED TOWARDS OPEN SPACE | OPEN SPACE CREDIT | % OF GROSS SITE AREA | OWNERSHIP & MAINTENANCE RESPONSIBILITY | WHEN CONSTRUCTED |
| 11 | DRAINAGE & LANDSCAPE BASEMENT | 0.198 | 100 | 0.198 | 8.64 | HQA | BY 1ST C.D. |
| 12 | DRAINAGE & LANDSCAPE BASEMENT | 0.293 | 100 | 0.293 | 7.68 | HQA | BY 1ST C.D. |

| | TOTAL | 0.40A | 0.40B | 0.42 | 0.04 | BY 1971 C |
|-------------------------------|-------|---------------|----------------|------|------|-----------|
| LAND USE | | AREA (AC.) | PERCENT (%) | | | |
| TOTAL | | 8.16 | 57.8 | | | |
| TRACT 1 (CREATION) FORMERLY | | 3.91 | 22.8 | | | |
| TRACT 2 (DUNE SPACE) | | 0.24 | 7.77 | | | |
| TRACT 3 (SALT FLATS) FORMERLY | | 0.82 | 8.81 | | | |
| TRACT 4 (CREATION) FORMERLY | | 0.48 | 4.21 | | | |
| TRACT 5 (DUNE SPACE) | | 0.25 | 2.72 | | | |
| TRACT 6 (CREATION) FORMERLY | | 0.17 | 1.85 | | | |
| TRACT 7 (DUNE SPACE) | | 1.50 | 14.43 | | | |
| RIGHT OF WAY | | | | | | |
| TOTAL | | 10.72 | 100 | | | |

| | | |
|--|--|-------------------------------|
|  MBV ENGINEERING, INC. PROFESSIONAL ASSOCIATES 1200 E. 6th Ave., Suite 100 Ft. Lauderdale, FL 33304 www.mbveng.com | JOB NO. 17-1042 DESIGNED WCA DRAWN JMW DATE 04-26-2018 CHECKED SAM DATE ISSUED 05/07/2018 | COMMENTS REVISIONS DATE |
| | FINAL PUD PLAN SABAL KEY PUD CITY OF PALM BEACH FLORIDA | |
| SHEET SP-1 | | |



Land Development Division
120 Malabar Road SE
Palm Bay, FL 32907
321-733-3042
Landdevelopment@palmabayflorida.org

PLANNED UNIT DEVELOPMENT APPLICATION (PUD) FINAL DEVELOPMENT PLAN

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida at least thirty (30) days prior to any scheduled meeting of the Planning and Zoning Board of the City of Palm Bay. The application will then be referred to the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

1) APPLICANT-DEVELOPER (Type or print) Chris McCurdy, Holiday Builders

ADDRESS 2293 W. Eau Gallie Blvd.

CITY Melbourne STATE FL ZIP 32935

PHONE # (321) 610-5233 FAX # (386) 843-1111

E-MAIL ADDRESS cmccurdy@holidaybuilders.com

2) ENGINEER Bruce Moia, P.E. - MBV Engineering, Inc.

ADDRESS 1250 W. Eau Gallie Blvd., Suite L

CITY Melbourne STATE FL ZIP 32935

PHONE # 321-253-1510 FAX # 321-253-0911

E-MAIL ADDRESS brucem@mbveng.com

3) SURVEYOR Smith Land Surveying

ADDRESS 4690 Lipscomb Road, Suite 9

CITY Palm Bay STATE FL ZIP 32905

PHONE # (772) 589-3228 FAX # (321) 951-4879

E-MAIL ADDRESS smithsurveying@aol.com

4) NAME OF PROPOSED DEVELOPMENT Sabal Key

5) LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION:

SEE ATTACHED

SECTION 29 TOWNSHIP 28S RANGE 37E

CITY OF PALM BAY, FLORIDA
PLANNED UNIT DEVELOPMENT APPLICATION
FINAL DEVELOPMENT PLAN
PAGE 2 OF 3

- 6) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 10.734 acres
- 7) TWO (2) COPIES OF THE FOLLOWING EXHIBITS SHALL BE ATTACHED TO THE FINAL APPLICATION. THE EXHIBITS SHALL ALSO BE PROVIDED BY CD OR MEMORY DRIVE.
- a) Development Plan meeting the requirements of 185.066(B)(2)(a).
 - b) Boundary & Topographic Map shall include the location, size and type of all trees (per the standards identified in [Chapter 180](#)).
 - c) Development Schedule meeting the requirements of 185.067 (A)(2).
 - d) Declaration of Covenants and Restrictions.
 - e) Identification of any land(s), rights-of-way, and/or easements that are being dedicated to the City
 - f) Title Opinion.
 - g) Subdivision Layout in Plat Form that meets the requirements of Florida Statute Chapter 177.

8) SUBMITTAL:

- a) The PUD zoning application and final development plan shall be submitted to the Land Development Division at least thirty (30) days prior to any scheduled meeting of the Planning and Zoning Board of the city.
- b) The application must be complete and accompanied by two (2) copies of the final development plan, as described in these regulations, a CD or other approved electronic copy of the plat, a filing fee, and a list of all owners of adjacent property and/or property directly opposite of the proposed subdivision. Such property owner information shall be obtained from the most recent County Tax Appraiser's rolls.
- c) The Land Development Division shall process and coordinate the review of the final development plan by the appropriate city departments. The appropriate city comments from the city departments are to review and comment on the submitted information. Written departments are to be returned to the Land Development Division to be incorporated into a staff report generated by the Land Development Division. The staff report is submitted to the Planning and Zoning Board at the time of the next regular meeting of the Board.
- d) The final plat application shall be heard by the Planning and Zoning Board at its regular meeting in the month following the submittal deadline date. Courtesy notice letters of the meeting are to be sent to the owners of abutting and opposite properties of the proposed subdivision. Failure to mail or receive such courtesy notice shall not affect any action or proceedings taken however. Notice of such a meeting shall also be posted on the property for which subdivision is sought.

9) THE FOLLOWING ENCLOSURES ARE NEEDED TO COMPLETE THIS APPLICATION:

- _____ *A \$1,500.00 application fee shall accompany the final development plan for the purpose of administration; additionally, engineering, plat filing, necessary copies and travel fees will also be incurred.
- _____ List of all adjacent property owners and property owners directly opposite of the property covered by this application, together with mailing addresses (including zip codes) and legal descriptions. (This can be obtained for a fee from the Brevard County Planning and Zoning Department at 321-633-2060.)
- _____ Where property is not owned by the applicant, a [letter](#) must be attached giving the Notarized consent of the owner to the applicant to request the planned unit development.

CITY OF PALM BAY, FLORIDA
PLANNED UNIT DEVELOPMENT APPLICATION
FINAL DEVELOPMENT PLAN
PAGE 3 OF 3

I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE LOCAL PLANNING AGENCY, AND CERTIFY THAT ALL THE ANSWERS TO THE QUESTIONS IN SAID APPLICATION, AND ALL DATA AND MATTER ATTACHED TO AND MADE A PART OF SAID APPLICATION ARE HONEST AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING FINAL PLANNED UNIT DEVELOPMENT (PUD) APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant



Digitally signed by Christopher McCurdy
DN: cn=Christopher McCurdy, o, ou,
email=chris@ULHDC.com, c=US
Date: 2018.06.15 10:48:30 -04'00'

Date

Printed Name of Applicant

Chris McCurdy

*NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
SPECIAL MEETING NO. 2018-07

Held on Wednesday, July 6, 2018, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Land Development Division, Palm Bay, Florida. The minutes are not a verbatim transcript but a brief summary of the discussions and actions taken at this meeting.

Mr. Wendall Stroderd called the meeting to order at approximately 7:00 p.m.

Mr. Woodrum led the Pledge of Allegiance to the Flag.

ROLL CALL:

| | | |
|--------------------------|---|---------|
| CHAIRPERSON: | Wendall Stroderd | Present |
| VICE CHAIRPERSON: | Philip Weinberg | Present |
| MEMBER: | Leeta Jordan | Present |
| MEMBER: | Khalilah Maragh | Present |
| MEMBER: | William Pezzillo | Present |
| MEMBER: | Rainer Warner | Present |
| MEMBER: | Thomas "Woody" Woodrum | Present |
| MEMBER: | Michele Quinn (School Board Appointee) | Absent |

CITY STAFF: Present were Ms. Elizabeth Beam, Assistant Growth Management Director; Mr. Christopher Balter, Planner II; Ms. Karen Black, Planner II; Ms. Chandra Powell, Recording Secretary; Mr. Rodney Edwards, Assistant City Attorney.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2018-06. As a correction, Mr. Weinberg noted that he had seconded the motion on page 1 to approve the minutes of 2018-05, and that he had made the motion on page 3 to approve Case CP-5-2018. Motion by Mr. Weinberg, seconded by Ms. Maragh to approve the minutes of 2018-06 as corrected. The motion carried with members voting unanimously.

3. ♣PUD-12-2018 – HOLIDAY BUILDERS, INC. (CHRIS MCCURDY)

Mr. Balter presented the staff report for Case PUD-12-2018. The applicant had requested Final Planned Unit Development (PUD) approval to allow a proposed 40-lot single-family residential development called Sabal Key PUD. Staff recommended Case PUD-12-2018 for approval, subject to the staff comments contained in the staff report.

Mr. Stroderd asked about the requirement to exclude sabal palm trees from being planted behind Lot 11, and he wanted to know why the need for a pedestrian actuated signal was at the applicant's consideration instead of a requirement. Mr. Balter explained that the applicant had agreed to a request by the east neighboring property owner to exclude planting adjacent sabal palms. The City could not require the recommended pedestrian actuated signal as there was a pedestrian actuated signal to north. The Public Works Department, however, desired the signal due to the development's close proximity to the park site.

Ms. Maragh questioned how staff would determine whether the applicant had considered the recommended pedestrian actuated signal. Mr. Balter stated that all conditions and recommendations would be addressed with the developer during the administrative construction plan approval process.

Mr. Warner wanted to know if an approval for the development would be voided if the eight items in the staff report were not adhered to. Mr. Balter said that the project would not receive construction plan approval unless the requirements were met.

Mr. Walter Nolasco with MBV Engineering, Inc. (civil engineer for the applicant) stated that the project had achieved what was required by the City of Palm Bay. An easement would be located at the side of the channel, and the south entrance would align with the nearby park site. Additional acreage would be purchased so that the project could be shifted north by 15 feet. The number of lots would remain the same, which would reduce the project density and increase open space.

Ms. Jordan asked if the applicant was in agreement with all conditions within the staff report. Ms. Nolasco confirmed that this was correct, and he agreed to work with the Public Works Department on a compromise regarding the recommended pedestrian actuated signal.

Mr. Warner commented on how additional residents would cause Riviera Drive NE to become more congested without an outlet. There was no consideration to how the area traffic would back up during emergencies such as a hurricane. He asked if anything was proposed to alleviate the situation. Mr. Nolasco commented that a right-in/right-out turn was planned to avoid left turns onto Riviera Drive and both accesses at the south of the development would be divided.

Ms. Maragh noted that any improvements required by the traffic study must be adhered to. Mr. Balter indicated that this was correct.

Mr. Stroderd inquired about the right-in/right-out lane. Mr. Nolasco described how an island would be installed at the north entrance to avoid left turns from Riviera Drive. The south entrance would allow left turns.

The floor was opened for public comments, and there was no correspondence in the file.

Ms. Ginger Twigg (resident at Galty Circle NE) spoke in favor of the request. She stated that she was the resident who did not want adjacent sabal palm trees. She wanted the character of her neighborhood maintained. She inquired about the setbacks for the homes due to the additional acreage; the possibility of a 30-foot conservation easement to buffer her property; and for the existing buffer to be maintained with indigenous Florida plantings added if more foliage was required. She did not want two-story homes to look into her backyard; drainage to flow onto her property; or flooding to increase at the Riviera Drive and Newbern Street NE intersection. The non-contiguous sidewalk approaching Newbern Street was not compliant with American with Disabilities Act (ADA) regulations and did not connect with the park on the west side, and some type of traffic calming device was needed to address the speeding on Riviera Drive. She remarked on how the sight-impaired resident in the area should be informed about the construction and changes for safety purposes.

Mr. Brandon Elliott (resident at Galty Circle NE) spoke in favor of the request. He was concerned about the congestion already on Riviera Drive and the flooding at the Newbern Avenue intersection. He wanted to know how long the construction process would take.

In response to comments from the audience, Mr. Chris McCurdy (applicant) confirmed that acquiring an additional 50 feet of land would allow the project to shift further north. Construction of the development would take 5 to 6 months with homes built in 18 to 20 months. Drainage would not be an issue because of the large onsite retention pond. He agreed to investigate accommodating the visually-impaired resident. He said that two-story homes would be allowed in the development.

Ms. Maragh asked about the request by the resident for the 30-foot conservation buffer. Mr. McCurdy stated that the buffer already planned for the project was adequate for a 40-home development on 10 acres.

Mr. Weinberg asked about the applicant's consideration of the recommended pedestrian actuated signal. Mr. McCurdy stated that he would wait for the results of the traffic study and give reasonable consideration to the signal.

The floor was closed for public comments.

Motion by Mr. Weinberg, seconded by Ms. Jordan to submit Case PUD-12-2018 to City Council for Final Planned Unit Development (PUD) approval to allow for a proposed 40-lot single-family residential development called Sabal Key PUD, subject to the staff comments contained in the staff report.

Mr. Weinberg commented that many concerns would be addressed during administrative review prior to site plan approval. Mr. Pezzillo still had concerns about the additional traffic on Riviera Drive since the road was not very wide. Ms. Maragh remarked that traffic issues would be mitigated by the traffic study or the project would not proceed.

An amendment to the motion was made by Mr. Stroderd to require the pedestrian actuated signal. Mr. Weinberg was opposed to the amendment.

Following discussion with Mr. Edwards on parliamentary procedures, Mr. Stroderd withdrew his amendment.

Discussion ensued on whether the City had the right to require the signal. Ms. Beam indicated that there was no regulatory requirement for the signal, but the issue would be addressed during administrative review. Mr. Balter noted that the board could add the requirement.

Ms. Jordan felt that a requirement for the signal would place an unfair burden on the applicant before a traffic study was completed, which could determine otherwise. Mr. Warner commented that there was a lack of information to make a wise decision. Ms. Maragh reiterated that the project would not go forward unless the traffic study was mitigated.

A vote was called on the motion by Mr. Weinberg, seconded by Ms. Jordan to submit Case PUD-12-2018 to City Council for Final Planned Unit Development (PUD) approval to allow for a proposed 40-lot single-family residential development called Sabal Key PUD, subject to the staff comments contained in the staff report. The motion failed with members voting as follows:

| | |
|--------------|-----|
| Mr. Stroder | Nay |
| Mr. Weinberg | Aye |
| Ms. Jordan | Aye |
| Ms. Maragh | Aye |
| Mr. Pezzillo | Nay |
| Mr. Warner | Nay |
| Mr. Woodrum | Nay |

4. CP-9-2018 – ROOK AT PALM BAY, LLC (JACK SPIRA, REP.)

Mr. Balter presented the staff report for Case CP-9-2018. The applicant had requested a large scale Comprehensive Plan Future Land Use Map amendment from Commercial Use and Single Family Residential Use to Multiple Family Residential Use and Commercial Use. Staff recommended Case CP-9-2018 for approval, pursuant to Chapter 163, Florida Statutes.

Mr. Woodrum wanted to know who would fund the water and sewer infrastructure for the project. Mr. Balter stated that water and sewer would be funded by the applicant at the time of development.

Mr. Jack Spira (representative for the applicant) stated the development would be an improvement to the vagrants and homeless on the property. There was no opposition to the request at the Citizen Participation Plan (CPP) meeting, and a traffic study would be required during administrative review.

ORDINANCE NO. 2018-31

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE ZONING ORDINANCE OF THE CITY OF PALM BAY BY CHANGING THE ZONING OF PROPERTY FROM IU (INSTITUTIONAL USE DISTRICT) TO PUD (PLANNED UNIT DEVELOPMENT) FOR A FINAL DEVELOPMENT PLAN FOR PHASE III OF AN APPROVED PLANNED UNIT DEVELOPMENT (PUD) KNOWN AS BRENTWOOD LAKES SOUTH, TO ALLOW FOR A CHANGE IN DENSITY FROM 85 SINGLE-FAMILY RESIDENTIAL LOTS TO 127 SINGLE-FAMILY RESIDENTIAL LOTS; WHICH PROPERTY IS LOCATED SOUTH OF AND ADJACENT TO MALABAR ROAD, IN THE VICINITY SOUTH OF WADING BIRD CIRCLE, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR A CHANGE OF THE ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Zoning Ordinance of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the rezoning of property from IU (Institutional Use District) to PUD (Planned Unit Development), being legally described as follows:

Tax Parcel 4, of the Public Records of Brevard County, Florida; Section 29, Township 28S, Range 37E; containing 10.73 acres, more or less.

SECTION 2. The Zoning Map of the City of Palm Bay is hereby revised to reflect this amendment.

SECTION 3. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting No. 2018- , held on , 2018; and read in title only and duly enacted at Meeting No. 2018- , held on , 2018.

ATTEST:


William Capote, MAYOR

Terese M. Jones, CITY CLERK



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Award of Invitation for Bid #42-0-2018/JM, Culvert Replacement at 26 Locations – Unit 42 and Lamplighter

This project is comprised of the removal, disposal, re-installation, and restoration of multiple cross drain culvert pipes at 26 locations throughout the City's Port Malabar Unit 42, and a stormwater inlet modification and replacement of an existing stormwater pipe on the corner of Lamplighter Drive and Pakenham Street. This is a turnkey project and includes all incidentals required to complete the project such as utility relocations, material furnishings, installations and restoration work associated with the culvert pipe replacements.

Three (3) bids were received. The Procurement Department staff reviewed the bids for responsiveness. The Public Works Department evaluated the bids for responsibility and ability to perform the scope of services. The Department found the low bid to be acceptable.

The City's projected budget for this project was \$450,000. Field conditions varied at each of the 26-locations throughout the City which resulted in bidder's responses at prices higher than anticipated. Public Works staff has reviewed the Summary of Pay Items, proposed Subcontractors, Equipment List, and References and is satisfied with the estimates provided by the vendor.

Staff recommends Ag-Scape Services dba Florida Site Contracting of Vero Beach, Florida for award of IFB # 42-0-2018/JM, Culvert Replacement at 26 Locations – Unit 42 and Lamplighter. Local Preference was not applied to this project as the bids exceeded the budgeted funds available.

Relocation of utility pipes was priced lump sum, per unit, on an as-needed basis. Although the IFB included a list of potential relocates, actual determination of need will be made on a case-by-case basis and will be processed via Change Order. As such, the motion also includes an approval for the Chief Procurement Officer to approve Change Orders for utility relocates as needed, based on the unit pricing already contained in the bid documents.

REQUESTING DEPARTMENTS:

Public Works Department, Procurement Department

FISCAL IMPACT:

The estimated construction budget for this project was \$450,000. Total base bid for this project is

\$468,750. Funds are available in the Unit 42 Pipe Replacement Project, account 461-7083-538-6309, project number 18SU16. Additional funds for utility relocates associated with the pipe replacements, up to \$247,000 if needed, are available in 461-7083 -538-6309/18SU01.

RECOMMENDATION:

Motion to approve award of IFB #42-0-2018/JM, Culvert Replacement at 26 Locations – Unit 42 & Lamplighter to Ag-Scape Services dba Florida Site Contracting located in Vero Beach, Florida for the base bid of \$468,750.00; and for the Chief Procurement Officer to approve Change Orders for utility relocates as needed for a not to exceed amount of \$247,000.00.

Attachment: 1) Tabulation Sheet

BM/JM/ab


| | | | | | | |
|---|--|-----|-----|--|--|--|
| | | | | Local Preference: N/A | Local Preference: Not requested | Local Preference: C |
| | IFB #42-0-2018/JM Culvert Replacement at 26 Locations - Unit 42 & Lamplighter | | | Florida Site Contracting | Jobear Contracting, Inc. | DP Development of the Treasure Coast |
| | | | | 866 11th Ct SW | 1950 Dana Drive NE | 467 Forrest Ave # 118 |
| | | | | Vero Beach, FL 32962 | Palm Bay, FL 32905 | Cocoa, FL 32922 |
| | | | | 772-473-1072 | 321-723-3571 | 561-650-1333 |
| | | | | shaneb@floridasitecontracting.com | rob@jobearinc.com | sales@dpdevelopment.net |
| ITEM | ITEM DESCRIPTION | Qty | UOM | Total Price | Total Price | Total Price |
| 1 | Culvert Replacement at 26 Locations - Unit 42 & Lamplighter | 1 | LS | \$ 468,950.00 | \$ 607,065.00 | \$ 615,350.00 |
| | | | | | | |
| ITEM | OPTIONAL UNIT PRICE, AS NEEDED | Qty | UOM | Total Price | Total Price | Total Price |
| 2 | Utility Pipe Relocaion, size 6" | 1 | LS | \$ 7,500.00 | \$ 7,000.00 | \$ 7,600.00 |
| 3 | Utility Pipe Relocaion, size 8" | 1 | LS | \$ 8,500.00 | \$ 8,492.00 | \$ 10,125.00 |
| 4 | Utility Pipe Relocaion, size 12" | 1 | LS | \$ 9,500.00 | \$ 12,000.00 | \$ 15,650.00 |
| | | | | | | |
| Notes: | | | | | | |
| Local Preference does not apply, as vendors which claimed Local Preference exceeded budget amount. Per Section GG of the Procurement Manual: 3. The term "Budget Cost" shall mean the estimated cost of the project as determined by the appropriate Department Director and certified to the Chief Procurement Officer prior to the opening of said bid. | | | | | | |

| Vendor | Florida Site Contracting | Jobear Contracting | DP Development |
|---------------------------|-----------------------------|-----------------------|---------------------|
| Unit 42 # 1 | \$12,600.00 | \$21,323.00 | \$16,725.00 |
| Unit 42 # 2 | \$23,900.00 | \$24,726.00 | \$23,725.00 |
| Unit 42 # 3 | \$14,300.00 | \$21,886.00 | \$17,675.00 |
| Unit 42 # 4 | \$18,470.00 | \$23,150.00 | \$20,475.00 |
| Unit 42 # 5 | \$13,600.00 | \$21,573.00 | \$21,050.00 |
| Unit 42 # 6 | \$18,470.00 | \$23,150.00 | \$20,475.00 |
| Unit 42 # 7 | \$18,470.00 | \$23,150.00 | \$20,475.00 |
| Unit 42 # 8 | \$14,300.00 | \$21,886.00 | \$17,675.00 |
| Unit 42 # 9 | \$23,900.00 | \$24,926.00 | \$27,975.00 |
| Unit 42 # 10 | \$18,470.00 | \$23,350.00 | \$24,150.00 |
| Unit 42 # 11 | \$14,300.00 | \$21,715.00 | \$17,675.00 |
| Unit 42 # 12 | \$18,470.00 | \$23,050.00 | \$20,475.00 |
| Unit 42 # 13 | \$14,300.00 | \$21,886.00 | \$22,400.00 |
| Unit 42 # 14 | \$12,600.00 | \$21,373.00 | \$16,725.00 |
| Unit 42 # 15 | \$14,300.00 | \$21,886.00 | \$17,675.00 |
| Unit 42 # 16 | \$29,360.00 | \$26,570.00 | \$44,500.00 |
| Unit 42 # 17 | \$7,000.00 | \$20,755.00 | \$18,375.00 |
| Unit 42 # 18 | \$42,000.00 | \$35,739.00 | \$63,475.00 |
| Unit 42 # 19 | \$14,300.00 | \$22,086.00 | \$22,100.00 |
| Unit 42 # 20 | \$14,300.00 | \$21,886.00 | \$17,675.00 |
| Unit 42 # 21 | \$23,900.00 | \$24,726.00 | \$28,325.00 |
| Unit 42 # 22 | \$23,900.00 | \$24,726.00 | \$23,600.00 |
| Unit 42 # 23 | \$18,470.00 | \$23,150.00 | \$20,475.00 |
| Unit 42 # 24 | \$18,470.00 | \$23,350.00 | \$24,850.00 |
| Unit 42 # 25 | \$12,400.00 | \$21,838.00 | \$16,775.00 |
| Lamplighter Drive # 26 | \$14,400.00 | \$23,209.00 | \$29,850.00 |
| Lump Sum | \$468,950.00 | \$607,065.00 | \$615,350.00 |



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Wade Trim Continuing Consultant Engineering Agreement Renewal, Palm Bay Utilities Department

The Utilities Department utilizes a continuing consultant engineering firm for general engineering services relating to extending the utility infrastructure, including plant design, lift/pump station design, utility design and permitting of utility projects. General engineering services also include environmental permitting, construction management and inspection services as well as other general civil, environmental assessments, survey services, water quality monitoring and utility engineering services.

On July 7, 2005, City Council awarded a Continuing Consultant Engineering Services Agreement for the Utilities Department, through competitive Request for Qualifications process (RFQ #28-0-2005) as defined in Florida Statute 287.055 for professional continuing consultant service. The agreement dated August 12, 2005 is reviewed for option to renew annually and is continuous unless terminated by the City.

REQUESTING DEPARTMENTS:

Utilities Department, Procurement Department

FISCAL IMPACT:

Continuing Consultant Engineering Services will be utilized by the Utilities Department on an "as needed" basis. The anticipated expenditures, pending budget approval, for FY19 are \$900,000. The anticipated expenditures include projects at the Water Treatment Plants, Wastewater Treatment Plant, lift stations and wells. In accordance with the City's Procurement Code of Ordinance, task orders for individual projects will be presented for approval as needed. The FY 2008 hourly rate schedule remains in effect.

RECOMMENDATION:

Motion to approve the annual renewal, through August 11, 2019, of the existing Continuing Engineering Consultant Services with Wade Trim located in Palm Bay, Florida.

Attachment: 1) Wade Trim Rate Schedule

BM/EF/ab

City of Palm Bay - Wade-Trim Billing Rate Schedule
With Equipment Billed Separately
Effective January, 2005

| Labor Cost Classification | | FY 05/06 | FY 06/07 | FY 07/08 |
|------------------------------|-------------------------------|------------------------|------------------------|------------------------|
| <u>Code</u> | | <u>Hourly Rate</u> | <u>Hourly Rate</u> | <u>Hourly Rate</u> |
| 236 | Professional Engineer III | 147 | 153 | 159 |
| 235 | Professional Engineer II | 114 | 119 | 124 |
| 234 | Professional Engineer I | 94 | 97 | 101 |
| 233 | Engineer III | 104 | 108 | 112 |
| 232 | Engineer II | 78 | 81 | 84 |
| 231 | Engineer I | 68 | 70 | 73 |
| 246 | Professional Planner III | 125 | 130 | 135 |
| 245 | Professional Planner II | 94 | 97 | 101 |
| 244 | Professional Planner I | 78 | 81 | 84 |
| 243 | Planner III | 68 | 70 | 73 |
| 242 | Planner II | 62 | 65 | 67 |
| 241 | Planner I | 57 | 59 | 62 |
| 256 | Prof. Landscape Architect III | 135 | 141 | 146 |
| 255 | Prof. Landscape Architect II | 94 | 97 | 101 |
| 254 | Prof. Landscape Architect I | 83 | 87 | 90 |
| 253 | Landscape Architect III | 78 | 81 | 84 |
| 252 | Landscape Architect II | 68 | 70 | 73 |
| 251 | Landscape Architect I | 52 | 54 | 56 |
| 266 | Professional Scientist III | 114 | 119 | 124 |
| 265 | Professional Scientist II | 94 | 97 | 101 |
| 264 | Professional Scientist I | 83 | 87 | 90 |
| 263 | Scientist III | 78 | 81 | 84 |
| 262 | Scientist II | 68 | 70 | 73 |
| 261 | Scientist I | 57 | 59 | 62 |
| 286 | Professional Surveyor III | 120 | 124 | 129 |
| 285 | Professional Surveyor II | 94 | 97 | 101 |
| 284 | Professional Surveyor I | 88 | 92 | 96 |
| 283 | Surveyor III | 78 | 81 | 84 |
| 282 | Surveyor II | 68 | 70 | 73 |
| 281 | Surveyor I | 57 | 59 | 62 |
| 226 | Technician VI | 73 | 76 | 79 |
| 225 | Technician V | 62 | 65 | 67 |
| 224 | Technician IV | 57 | 59 | 62 |
| 223 | Technician III | 47 | 49 | 51 |
| 222 | Technician II | 42 | 43 | 45 |
| 221 | Technician I | 36 | 38 | 39 |
| 203 | Senior Principal | 187 | 195 | 202 |

| | | | | |
|-----|------------------------------|-----|-----|-----|
| 202 | Principal | 210 | 218 | 227 |
| 201 | Senior Professional | 185 | 192 | 200 |
| 216 | Administrative Manager | 140 | 146 | 152 |
| 215 | Administrative Supervisor II | 109 | 114 | 118 |
| 214 | Administrative Supervisor I | 94 | 97 | 101 |
| 213 | Project Administrator III | 99 | 103 | 107 |
| 212 | Project Administrator II | 78 | 81 | 84 |
| 211 | Project Administrator I | 57 | 59 | 62 |

Wade-Trim Billing Rate Schedule No. 2005A
With Equipment Billed Separately
Effective January, 2005

| <u>Other Direct Cost</u> | <u>Rate Per Hour</u> |
|---|----------------------|
| Computer Aided Design & Drafting (CADD) | \$14.00/hour |
| Fax Machine | \$0.55/Copy |
| Mini-Computer | \$14.00/hour |
| Micro-Computer | \$14.00/hour |
| Word Processor | \$6.00/hour |
| Survey - Standard Equipment Package | \$4.00/hour |
| Survey - Total Station - T1000 | \$8.00/hour |
| Survey - Total Station - T2000 | \$11.00/hour |
| SSES - Includes Van and Standard Equipment | \$14.75/hour |
| GPS Equipment | \$16.00/hour |
| Noise Meter | \$9.50/hour |
| Flow Meter | \$2.00/hour |
| Traxler Nuclear Densimeter | \$1.75/hour |
| Cylinder Breaking | \$15.00/cylinder |
| Concrete Testing Equipment | \$10.00/day |
| Photocopies | \$0.10/copy |
| Blue Prints (Printing Included) | \$0.16/sq. ft. |
| Mylar Blackline Prints (Printing Included) | \$1.50/sq. ft. |
| Paper Brownline Sepia (Printing Included) | \$0.72/sq. ft. |
| Mylar Photographic Reproduction (Printing Included) | \$4.50/sq. ft. |
| Travel | \$0.405/mile |
| 4 Wheel Individual Off Road/All Terrain Vehicle | \$5.00/hour |
| Van (Includes Mileage Charge) | \$8.50/hour |
| Laptop Computers | \$10.00/day |
| 3-D Laser Scanner | \$40.00/hour |
| Hydration Flow Testing | \$30.00/hour |
| OCE Printer | \$.85/sheet |

Outside expenses and subconsultants at cost


Special billing rates will apply in matters requiring expert witnesses or other consulting as it relates to legal matters.

Reviewed and Revised Annually



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Authorization to Negotiate South Regional Water Treatment Plant (SRWTP) Expansion and North Regional Water Treatment Plant (NRWTP) Reverse Osmosis Rehabilitation Engineering Services for RFQ #47-0-2018/JM

In accordance with the provisions of Section 287.055, Florida Statutes for Consultants Competitive Negotiation Act (CCNA), the City of Palm Bay solicited and accepted qualification submittals on behalf of the Utilities Department from individuals and firms to provide design, permitting, funding assistance, bidding assistance and construction management services for the expansion of the SRWTP from 4.0 MGD to 6.0 MGD; and for design services, permitting, funding assistance, bidding assistance and construction management services for the rehabilitation of the reverse osmosis plant at the NRWTP.

A Request for Qualifications (RFQ) was advertised and a total of two (2) firms responded. An evaluation committee consisting of representatives from the Utilities department and the Director of Operations from the TOHO Water Authority reviewed all submittals received. Criteria included evaluation of the firm's profile, project team, project team location, previous experience, project management & quality control.

Both firms were subsequently brought in for presentations and discussions with the committee and scored on their overall demonstrated capacity as evidenced by: their written response to additional questions asked by the team and received in advance of the discussions; their response to questions asked during the oral discussion session; and their overall presentation. Based on the scoring, the Evaluation Team provided a final ranking. The ranking was: 1) Tetra Tech, Inc. and 2) CPH, Inc. The Evaluation Team recommended award to the top ranked firm, Tetra Tech, Inc. located in Orlando, Florida.

Because this is a solicitation for professional architectural & engineering services, Florida Statutes §287.055 requires a qualification-based selection; cost cannot be one of the evaluation factors.

REQUESTING DEPARTMENTS:

Utilities Department, Procurement Department

FISCAL IMPACT:

The action requested today does not incur any expenses. Contracts will be presented to Council to

include Task Orders for each project and hourly rate schedules for consideration and approval following negotiations with the selected firms.

RECOMMENDATION:

Motion to authorize the City staff to negotiate Consultant Agreements with the top ranked firm, Tetra Tech, Inc. located in Orlando, Florida.

Should the City be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the City determines to be fair, competitive, and reasonable, negotiations with that firm will be formally terminated. The City will then undertake negotiations with the second most qualified firm, CPH, Inc. located in Sanford, FL. Failing accord with the second most qualified firm, the City will terminate negotiations.

Attachments: 1) Scoring-Ranking Form
 2) List of Consultant Firm Respondents

BM/EF/ab

RFQ #47-0-2018/JM, SRWTP Expansion and NRWTP Reverse Osmosis Rehabilitation Engineering Services
FINAL RANKING

| FIRM PROFILE: Quality of responses to written questions received in advance; interviews; and presentations = max 5 - points x 4 = max 20 total | | | | | | |
|---|--------|--------|-------------|---------|------------|--------|
| | Rick | Chris | Matt | | Multiplier | TOTAL |
| COMPANY NAME | Nipper | Little | Prendergast | AVERAGE | | POINTS |
| CPH, Inc. | 3.00 | 3.00 | 4.00 | 3.33 | 4.00 | 13.33 |
| Tetra Tech, Inc. | 5.00 | 5.00 | 5.00 | 5.00 | 4.00 | 20.00 |

| PROJECT TEAM: Quality of responses to written questions received in advance; interviews; and presentations = max 5 - points x 4 = max 20 total | | | | | | |
|---|--------|--------|-------------|---------|------------|--------|
| | Rick | Chris | Matt | | Multiplier | TOTAL |
| COMPANY NAME | Nipper | Little | Prendergast | AVERAGE | | POINTS |
| CPH, Inc. | 2.00 | 4.00 | 4.00 | 3.33 | 4.00 | 13.33 |
| Tetra Tech, Inc. | 5.00 | 5.00 | 5.00 | 5.00 | 4.00 | 20.00 |

| PREV EXPERIENCE: Quality of responses to written questions received in advance; interviews; and presentations = max 5 - points x 8 = max 40 total | | | | | | |
|--|--------|--------|-------------|---------|------------|--------|
| | Rick | Chris | Matt | | Multiplier | TOTAL |
| COMPANY NAME | Nipper | Little | Prendergast | AVERAGE | | POINTS |
| CPH, Inc. | 3.00 | 3.00 | 3.00 | 3.00 | 8.00 | 24.00 |
| Tetra Tech, Inc. | 5.00 | 5.00 | 5.00 | 5.00 | 8.00 | 40.00 |

| PROJ MGMT & QUAL CONTROL: Quality of responses to written questions received in advance; interviews; and presentations = max 5 - points x 4 = max 20 total | | | | | | |
|--|--------|--------|-------------|---------|------------|--------|
| | Rick | Chris | Matt | | Multiplier | TOTAL |
| COMPANY NAME | Nipper | Little | Prendergast | AVERAGE | | POINTS |
| CPH, Inc. | 4.00 | 5.00 | 4.00 | 4.33 | 4.00 | 17.33 |
| Tetra Tech, Inc. | 5.00 | 5.00 | 5.00 | 5.00 | 4.00 | 20.00 |

| TOTAL | | Consensus from Evaluation Team to recommend top ranked firm: | |
|------------------|--------|--|--|
| | TOTAL | Final Rank, where a rank of "1" is the top ranked firm | |
| COMPANY NAME | POINTS | FINAL RANK | |
| CPH, Inc. | 68.00 | 2 | |
| Tetra Tech, Inc. | 100.00 | 1 | |

RFQ #47-0-2018/JM, SRWTP Expansion and NRWTP Reverse Osmosis Rehabilitation Engineering Services

Initial Scoring

Project Team = max 5 - points x 4 = max 20 total

| | Rick | Chris | Matt | | Multiplier | TOTAL |
|------------------|--------|--------|-------------|---------|------------|--------|
| COMPANY NAME | Nipper | Little | Prendergast | AVERAGE | | POINTS |
| CPH, Inc. | 3.00 | 3.00 | 3.00 | 3.00 | 4.00 | 12.00 |
| Tetra Tech, Inc. | 5.00 | 5.00 | 5.00 | 5.00 | 4.00 | 20.00 |

Project Team Location = max 5 - points x 2 = max 10 total

| | Rick | Chris | Matt | | Multiplier | TOTAL |
|------------------|--------|--------|-------------|---------|------------|--------|
| COMPANY NAME | Nipper | Little | Prendergast | AVERAGE | | POINTS |
| CPH, Inc. | 4.00 | 5.00 | 3.00 | 4.00 | 2.00 | 8.00 |
| Tetra Tech, Inc. | 5.00 | 5.00 | 4.00 | 4.67 | 2.00 | 9.33 |

Previous Experience = max 5 - points x 8 = max 40 total

| | Rick | Chris | Matt | | Multiplier | TOTAL |
|------------------|--------|--------|-------------|---------|------------|--------|
| COMPANY NAME | Nipper | Little | Prendergast | AVERAGE | | POINTS |
| CPH, Inc. | 2.00 | 2.00 | 3.00 | 2.33 | 8.00 | 18.67 |
| Tetra Tech, Inc. | 5.00 | 5.00 | 5.00 | 5.00 | 8.00 | 40.00 |

Project Management & Quality Control = max 5 - points x 2 = max 10 total

| | Rick | Chris | Matt | | Multiplier | TOTAL |
|------------------|--------|--------|-------------|---------|------------|--------|
| COMPANY NAME | Nipper | Little | Prendergast | AVERAGE | | POINTS |
| CPH, Inc. | 4.00 | 4.00 | 4.00 | 4.00 | 2.00 | 8.00 |
| Tetra Tech, Inc. | 5.00 | 5.00 | 4.00 | 4.67 | 2.00 | 9.33 |

TOTAL

| | TOTAL |
|------------------|--------|
| COMPANY NAME | POINTS |
| CPH, Inc. | 60.00 |
| Tetra Tech, Inc. | 97.33 |

Both firms will receive further consideration.



Request for Qualifications #47-0-2018/JM

South Regional Water Treatment Plant (SRWTP) Expansion and North Regional Water Treatment Plant (NRWTP) Reverse Osmosis Rehabilitation Engineering Services

Close Date/Time: June 19, 2018 @ 5:00 p.m.

Opening Date/Time: June 20, 2018 @ 10:00 a.m.

Proposals were received in response to the City's RFQ #47-0-2018/JM from the following firms:

CPH, Inc.


500 West Fulton Street
Sanford, Florida 32771
Phone: 407-322-6841

Tetra Tech, Inc.

201 E. Pine Street Suite 100
Orlando, Florida 32801
Phone: 407-839-3955



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk 

DATE: August 2, 2018

SUBJECT: One (1) Appointment – Code Enforcement Board

As you may recall, James Monarchy resigned from the above subject board. The vacancy has been announced at several regular Council meetings and applications solicited for same.

The following applications have been received:

Erin Riley Bradley
551 Australian Road, NW 32907

David Wills
1090 Commerce Road, SE 32909

Wendy Fisher
2164 Rockabye Avenue, SE 32909

Santa Isabel Wright
858 Brisbane Street, NE 32907

Lee Koepke, Jr.
522 Balcom Terrace, SE 32909

Attached is a ranking sheet that can be printed from the agenda packet. A sheet will also be on the dais at tonight's meeting. Council is to rank the above individuals from "1 - 5" with **No. 1 representing your first choice**. Please give the completed sheet to the clerk on duty prior to the start of the meeting.

The matter is presented to Council for the appointment of one (1) at-large member to the Code Enforcement Board. The individual appointed will complete Mr. Monarchy's term which expires February 28, 2019.

If you should have any questions, please advise.

/jcd

Attachment



APPLICATION FOR MEMBERSHIP CITY BOARDS OR COMMITTEES

City of Palm Bay
120 Malabar Road
Palm Bay, FL 32907

Phone: 321-952-3414
Fax: 321-953-8971
www.palmbayflorida.org

Board/Committee CODE ENFORCEMENT BOARD

First Name: ERIN Middle: RILEY Last Name: BRADLEY

Home Address: 551 AUSTRALIAN RD NW

City: PALM BAY State: Florida Zip Code: FL

Phone Number (#####) 3216157704

Fax Number (#####)

E-mail: erinrileybradley@gmail.com

Employment

Employer: EASTERN FLORIDA STATE COLLEGE Occupation: PARALEGAL SPECIALIST

Address: 3865 N. WICKHAM RD

City: MELBOURNE State: FL Zip Code: 32935

Phone Number (#####) 3214335494

Fax Number (#####)

E-mail:

Job Responsibilities: scheduling, planning, and oversight of program attributes. Student advisement; internship and job

placement. Holding semi-annual meetings with different cohorts of the program. Time management, Program development.

Education

| Type of School | Name of School and Location | No. Years Completed | Major or Degree |
|-------------------------------|-------------------------------|---------------------|-----------------|
| High School | Leominster High School | 4 | Diploma |
| College, Bus. or Trade School | Eastern Florida State College | 3 | A.S. Paralegal |
| Professional School | | | |
| Other | | | |

Have you ever held a business tax receipt: ☐ yes ☒ no

If yes, please provide the following:

Title:

Issue Date:

Issuing Authority:

If any disciplinary action has been taken, please state the type and date of the action taken:

Disciplinary Action:

Disciplinary Date:

Continue on the next page

Are you a resident of the City? ☒ yes ☐ no If yes, how long? Years Months

How long have you been a resident of Brevard County? Years Months

Are you a United States citizen? ☒ yes ☐ no Are you a registered voter of the City? ☒ yes ☐ no

Are you employed by the City? ☐ yes ☒ no If yes, what department?

Do you presently serve on a City board(s)? ☐ yes ☒ no

If yes, please list board(s):

Have you previously served on a City board(s)? ☐ yes ☒ no

If yes, please list board(s):

Are you currently serving on a board, authority, commission for another governmental agency? ☐ yes ☒ no

If yes, what agency and board?

Have you ever been convicted or pled guilty to a criminal charge or pled nolo contendere (no contest) to a criminal charge? ☐ yes ☒ no

If yes, what charge? where; when;

and disposition was: Have your civil rights been restored? ☐ yes ☐ no

Are you a member or participant of any community organizations? ☐ yes ☒ no

If yes, please list

| |
|--|
| |
| |
| |

What are your hobbies/interests?

| |
|---|
| Reading, Billiards, Travel, Social advocacy |
| |
| |

Why do you want to serve on this board/committee?

| |
|--|
| Palm Bay needs citizens that are dedicated to their community. I have learned within my current employment, advocacy is one of my greatest strengths. With a background in Legal Studies, I will have the ability to look at finding of fact in every situation. |
|--|

Section 760.80, Florida Statutes, requires certain information on statutorily created boards to be filed on an annual basis. Please complete the following:

Race: Gender: Physically Disabled: **APPLICANT CERTIFICATION**

By filing this application with the City of Palm Bay, I do hereby acknowledge the following:

1. This application, when completed and filed with the Office of the City Clerk, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and is open to public inspection.
2. I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the City Clerk.
3. I consent to filing the Statement of Financial Interests (Form 1) if required for this board.
<http://www.ethics.state.fl.us/ethics/forms.html>
4. If appointed to a board/committee, I acknowledge that it is my obligation and duty to comply with the following:

Code of Ethics for Public Officials (Florida Statutes, Chapter 112, Part III)
Florida Sunshine Law (Florida Statutes, Chapter 286)
<http://www.flsenate.gov/Statutes>
5. I understand the responsibilities associated with being a board/committee member, and I will have adequate time to serve on this board/committee.

The information provided on this form is true and correct, and consent is hereby given to the City Council or its designated representative to verify any and/or all information provided.

Please return via email:

or mail to: City of Palm Bay
Office of the City Clerk
120 Malabar Road, SE
Palm Bay, FL 32907

Or Fax: (321) 953-8971



APPLICATION FOR MEMBERSHIP CITY BOARDS OR COMMITTEES

Office of The

JUL 25 2018

City Clerk

City of Palm Bay
120 Malabar Road
Palm Bay, FL 32907

Phone: 321-952-3414
Fax: 321-953-8971
www.palmbayflorida.org

Board/Committee Code Enforcement Board

First Name: Wendy Middle: Lee Last Name: Fisher

Home Address: 2164 Rockabye Ave SE

City: Palm Bay State: Florida Zip Code: 32909

Phone Number (#####) 3215019753 Fax Number (#####):

E-mail: wendy@fisherlaw-pll.com

Employment

Employer: Fisher Law, PLLC (Self-employed) Occupation: Attorney

Address: 2164 Rockabye Ave SE

City: Palm Bay State: FL Zip Code: 32909

Phone Number (#####) 3215019753 Fax Number (#####):

E-mail:

Job Responsibilities: Counsel and represent clients in legal matters concerning real estate, business, family and local government law.

Education

| Type of School | Name of School and Location | No. Years Completed | Major or Degree |
|------------------------------|---|---------------------|------------------------|
| High School | Bayside High School, Palm Bay, FL | 4 | College Prep |
| College Bus. or Trade School | University of Central Florida, Orland, FL | 4 | B.A. Political Science |
| Professional School | Stetson University College of Law, Gulfport, FL | 3 | J.D. |
| Other | | | |

Have you ever held a business tax receipt: ☒ yes ☐ no

If yes, please provide the following:

Title: Attorney (Home-Based)

Issue Date: 11/28/2017 Issuing Authority: City of Palm Bay

If any disciplinary action has been taken, please state the type and date of the action taken:

Disciplinary Action: Disciplinary Date:

Continue on the next page

Are you a resident of the City? ☒ yes ☐ no If yes, how long? Years Months

How long have you been a resident of Brevard County? Years Months

Are you a United States citizen? ☒ yes ☐ no Are you a registered voter of the City? ☒ yes ☐ no

Are you employed by the City? ☐ yes ☒ no If yes, what department?

Do you presently serve on a City board(s)? ☐ yes ☒ no

If yes, please list board(s):

Have you previously served on a City board(s)? ☐ yes ☒ no

If yes, please list board(s):

Are you currently serving on a board, authority, commission for another governmental agency? ☐ yes ☒ no

If yes, what agency and board?

Have you ever been convicted or pled guilty to a criminal charge or pled nolo contendere (no contest) to a criminal charge? ☐ yes ☒ no

If yes, what charge? where; when;

and disposition was: Have your civil rights been restored? ☐ yes ☐ no

Are you a member or participant of any community organizations? ☒ yes ☐ no

If yes, please list

| |
|--|
| Brevard County Association for Women Lawyers; Vassar B. Carlton Inn of Court, Brevard County Bar Association; The Florida Bar Voluntary Bar Leaders Committee; The Florida Bar Leadership Academy Committee; Brevard County Domestic Violence Task Force |
|--|

What are your hobbies/interests?

| |
|--|
| Volunteering with the local domestic violence shelter, Serene Harbor; Volunteering with the Haven for Children; Training for 5Ks; Kayaking; Event Planning |
|--|

Why do you want to serve on this board/committee?

| |
|--|
| It is very important to me to dedicate and invest in my community. Palm Bay has been my home for many years, and I have experience working with code enforcement issues in the legal field. It would be a tremendous opportunity to give back to my community by using the skills gained in my career. |
|--|

Section 760.80, Florida Statutes, requires certain information on statutorily created boards to be filed on an annual basis. Please complete the following:

Race:

Gender:

Physically Disabled:

APPLICANT CERTIFICATION

By filing this application with the City of Palm Bay, I do hereby acknowledge the following:

1. This application, when completed and filed with the Office of the City Clerk, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and is open to public inspection.
2. I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the City Clerk.
3. I consent to filing the Statement of Financial Interests (Form 1) if required for this board.
<http://www.ethics.state.fl.us/ethics/forms.html>
4. If appointed to a board/committee, I acknowledge that it is my obligation and duty to comply with the following:

Code of Ethics for Public Officials (Florida Statutes, Chapter 112, Part III)
Florida Sunshine Law (Florida Statutes, Chapter 286)
<http://www.flsenate.gov/Statutes>
5. I understand the responsibilities associated with being a board/committee member, and I will have adequate time to serve on this board/committee.

The information provided on this form is true and correct, and consent is hereby given to the City Council or its designated representative to verify any and/or all information provided.

Please return via email:

or mail to: City of Palm Bay
Office of the City Clerk
120 Malabar Road, SE
Palm Bay, FL 32907

Or Fax: (321) 953-8971



Office of The
JUL 25 2018
City Clerk

APPLICATION FOR MEMBERSHIP CITY BOARDS OR COMMITTEES

THIS APPLICATION MUST BE RECEIVED BY THE OFFICE OF THE CITY CLERK NO LATER THAN WEDNESDAY, 5:00 P.M., _____, TO BE CONSIDERED BY THE CITY COUNCIL.

Board/Committee: Code Enforcement Board

1. Full name: Lee Koepke, Jr
- a) Home Address: 522 Balcom Terrace SE
City: Palm Bay Zip Code: 32909
Telephone No. (321)288-5107 Fax No.: _____
E-mail: lckii2017@gmail.com
- b) Employer: Don Facciobene, Inc Construction Occupation: Director of Pre-Construction
Address: 5055 Babcock St NE #4
City: Palm Bay Zip Code: 32905
Telephone No. (321)727-7100 Fax No: (321)728-7100
E-mail: lkoepke@dfi-gc.com
- Job responsibilities: Overall responsibility for all estimating, project procurement, scheduling, and pre-construction activities for a regional general contractor.

If retired, what was your occupation prior to retirement? _____

List job responsibilities in the space above.

2. Education: BS Finance - University of Central Florida

3. Have you ever held a business license or certificate? Yes X No _____
If yes, please provide the following:

| Title | Issue Date | Issuing Authority | Disciplinary Action/Dates |
|--------------------------------------|-------------|-------------------|---------------------------|
| <u>Certified Building Contractor</u> | <u>1991</u> | <u>CILB</u> | <u>none</u> |

4. Are you a resident of the City? Yes X No _____
If yes, how long? 10 months

5. How long have you been a resident of Brevard County? 10 months
6. Are you a United States citizen? Yes X No
7. Are you a registered voter of the City? Yes X No
8. Are you employed by the City? Yes No X
9. Do you presently serve on a City board(s)? Yes No X
- If yes, please list board(s):
10. Have you previously served on a City board(s)? Yes X No
- If yes, please list board(s): City of Kissimmee / Code Enforcement
City of Kissimmee / Planning Advisory Board
11. Are you currently serving on a board, authority, or commission for another governmental agency? Yes No X
- If yes, what board, etc.
12. Have you ever been convicted or pled guilty to a criminal charge or pled nolo contendere (no contest) to a criminal charge? Yes No X
- If yes, what charge ; where ; when ;
disposition was: Convicted Pled Guilty Pled No Contest
- Have your civil rights been restored? Yes No
13. Are you a member or participant of any community organizations? (Please list)
none
14. What are your hobbies/interests? Woodworking, outdoor activities
15. Why do you want to serve on this board/committee?
I want to be a part of the community I live and work in. I want to contribute to make the place
my family and I live a better place. My experience on previous boards were fulfilling and I
enjoyed the contributions I made in the past.

16. Section 760.80, Florida Statutes, requires certain information on statutorily created boards to be filed on an annual basis. Please complete the following:

| | | | | | |
|-------|-------------------|--------------|---------|--------|--------------|
| Race: | African-American | _____ | Gender: | Male | <u> X </u> |
| | Asian-American | _____ | | Female | _____ |
| | Hispanic-American | _____ | | | |
| | Native-American | _____ | | | |
| | Caucasian | <u> X </u> | | | |
| | Not Known | _____ | | | |

Physically Disabled: Yes _____ No X

APPLICANT CERTIFICATION

By filing this application with the City of Palm Bay and placing my signature below, I do hereby acknowledge the following:

1. This Application, when completed and filed with the Office of the City Clerk, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and is open to public inspection.
2. I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the City Clerk.
3. I consent to filing the Statement of Financial Interests if required for this board.
4. If appointed to a board/committee, I acknowledge that it is my obligation and duty to comply with the following:

Code of Ethics for Public Officials (Florida Statutes, Chapter 112, Part III)
Florida Sunshine Law (Florida Statutes, Chapter 286)
5. I understand the responsibilities associated with being a board/committee member, and I will have adequate time to serve on this board/committee.

The information provided on this form is true and correct, and consent is hereby given the City Council or its designated representative to verify any and/or all information provided.

Signature: _____

Date: _____

07/25/2018

Please return via email:

SUBMIT

Fax: (321) 953-8971

or mail to: City of Palm Bay
Office of the City Clerk
120 Malabar Road, SE
Palm Bay, FL 32907



APPLICATION FOR MEMBERSHIP CITY BOARDS OR COMMITTEES

Office of The

JUL 20 2018

City of Palm Bay
120 Malabar Road
Palm Bay, FL 32907

City Clerk

Phone: 321-952-3414

Fax: 321-953-8971

www.palmbayflorida.org

Board/Committee Code Enforcement Board

First Name: David Middle: Last Name: Wills

Home Address: 1090 Commerce Road SE

City: Palm Bay State: Florida Zip Code: 32909

Phone Number (#####) 321-9522576 Fax Number (#####):

E-mail: wills-d@att.net

Employment

Employer: FL DCF Occupation: Retired paralegal

Address: 6100 Minton Road

City: Palm Bay State: FL Zip Code: 32909

Phone Number (#####) Fax Number (#####):

E-mail:

Job Responsibilities: Litigation assistant to staff attorneys

Education

| Type of School | Name of School and Location | No. Years Completed | Major or Degree |
|-------------------------------|-----------------------------|---------------------|-----------------|
| High School | Brooklyn Automotive HS | 3 | Diploma |
| College, Bus. or Trade School | Kaplan University | 3 | Bachelor deg. |
| Professional School | | | |
| Other | U.S.C.G inspector school | 5 | Cert of comp |

Have you ever held a business tax receipt: ☐ yes ☒ no

If yes, please provide the following:

Title:

Issue Date: Issuing Authority:

If any disciplinary action has been taken, please state the type and date of the action taken:

Disciplinary Action: n/a Disciplinary Date:

Continue on the next page

Continue on the next page

Section 760.80, Florida Statutes, requires certain information on statutorily created boards to be filed on an annual basis.
Please complete the following:

Race: Afro-american

Gender: male

Physically Disabled: none

APPLICANT CERTIFICATION

By filing this application with the City of Palm Bay, I do hereby acknowledge the following:

1. This application, when completed and filed with the Office of the City Clerk, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and is open to public inspection.
2. I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the City Clerk.
3. I consent to filing the Statement of Financial Interests (Form 1) if required for this board.
<http://www.ethics.state.fl.us/ethics/forms.html>
4. If appointed to a board/committee, I acknowledge that it is my obligation and duty to comply with the following:

Code of Ethics for Public Officials (Florida Statutes, Chapter 112, Part III)
Florida Sunshine Law (Florida Statutes, Chapter 286)
<http://www.flsenate.gov/Statutes>
5. I understand the responsibilities associated with being a board/committee member, and I will have adequate time to serve on this board/committee.

The information provided on this form is true and correct, and consent is hereby given to the City Council or its designated representative to verify any and/or all information provided.

Please return via email:

Submit

or mail to: City of Palm Bay
Office of the City Clerk
120 Malabar Road, SE
Palm Bay, FL 32907

Or Fax: (321) 953-8971



APPLICATION FOR MEMBERSHIP CITY BOARDS OR COMMITTEES

Office of The

JUL 20 2018

City of Palm Bay
120 Malabar Road
Palm Bay, FL 32907

City Clerk

Phone: 321-952-3414
Fax: 321-953-8971
www.palmbayflorida.org

Board/Committee Code Enforcement Board

First Name: Santa Middle: Isabel Last Name: Wright

Home Address: 858 Brisbane St NE

City: Palm Bay State: Florida Zip Code: 32907

Phone Number (#####) 3214827006 Fax Number (#####) 3217225192

E-mail: mrsisabelwright@aol.com

Employment

Employer: CMS TREE SERVICES Occupation: Owner

Address: Box 100154

City: Palm Bay State: FL Zip Code: 32910

Phone Number (#####) 3214827006 Fax Number (#####) 3217225192

E-mail:

Job Responsibilities: own and operate a tree trimming and removal service, I am responsible for daily operations

Education

| Type of School | Name of School and Location | No. Years Completed | Major or Degree |
|------------------------------|-------------------------------------|---------------------|------------------------|
| High School | Belmont High School, Los Angeles CA | 3 | H.S. |
| College Bus. or Trade School | Bryman College, Los Angeles, CA | 2 | A.A. |
| Professional School | N.S.T., Miami, FL | 1 | Utilization Management |
| Other | N.E.C., Miami, FL | 1 | Medical Assistant |

Have you ever held a business tax receipt: ☒ yes ☐ no

If yes, please provide the following:

Title: Business Tax Receipt

Issue Date: 2017 Issuing Authority: City of Palm Bay & Brevard County

If any disciplinary action has been taken, please state the type and date of the action taken:

Disciplinary Action:

Disciplinary Date:

Continue on the next page

Are you a resident of the City? ☒ yes ☐ no If yes, how long? Years Months

How long have you been a resident of Brevard County? Years Months

Are you a United States citizen? ☒ yes ☐ no Are you a registered voter of the City? ☒ yes ☐ no

Are you employed by the City? ☐ yes ☒ no If yes, what department?

Do you presently serve on a City board(s)? ☐ yes ☒ no

If yes, please list board(s):

Have you previously served on a City board(s)? ☒ yes ☐ no

If yes, please list board(s):

Are you currently serving on a board, authority, commission for another governmental agency? ☐ yes ☒ no

If yes, what agency and board?

Have you ever been convicted or pled guilty to a criminal charge or pled nolo contendere (no contest) to a criminal charge? ☐ yes ☒ no

If yes, what charge? where; when;

and disposition was: Have your civil rights been restored? ☐ yes ☐ no

Are you a member or participant of any community organizations? ☒ yes ☒ no

If yes, please list

What are your hobbies/interests?

Why do you want to serve on this board/committee?

Section 760.80, Florida Statutes, requires certain information on statutorily created boards to be filed on an annual basis. Please complete the following:

Race: **HISPANIC**

Gender: **FEMALE**

Physically Disabled: ☐

APPLICANT CERTIFICATION

By filing this application with the City of Palm Bay, I do hereby acknowledge the following:

1. This application, when completed and filed with the Office of the City Clerk, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and is open to public inspection.
2. I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the City Clerk.
3. I consent to filing the Statement of Financial Interests (Form 1) if required for this board.
<http://www.ethics.state.fl.us/ethics/forms.html>
4. If appointed to a board/committee, I acknowledge that it is my obligation and duty to comply with the following:

Code of Ethics for Public Officials (Florida Statutes, Chapter 112, Part III)
Florida Sunshine Law (Florida Statutes, Chapter 286)
<http://www.flsenate.gov/Statutes>
5. I understand the responsibilities associated with being a board/committee member, and I will have adequate time to serve on this board/committee.

The information provided on this form is true and correct, and consent is hereby given to the City Council or its designated representative to verify any and/or all information provided.

Please return via email:

Submit

or mail to: City of Palm Bay
Office of the City Clerk
120 Malabar Road, SE
Palm Bay, FL 32907

Or Fax: (321) 953-8971

City of Palm Bay, Florida

Code Enforcement Board

Rank Sheet

Please rank from “1 – 5 with **“1” representing your first choice**

| Applicant’s Name | Capote | Holton | Santiago | Bailey | Anderson |
|---------------------|--------|--------|----------|--------|----------|
| Erin Riley Bradley | | | | | |
| | | | | | |
| Wendy Fisher | | | | | |
| | | | | | |
| Lee Koepke, Jr. | | | | | |
| | | | | | |
| David Wills | | | | | |
| | | | | | |
| Santa Isabel Wright | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

DATE: August 2, 2018

SUBJECT: Conditional Use, Extension – Palm City Investments, F.H., LLC

Palm City Investments, F.H., LLC, has requested an extension to the commencement period of the conditional use granted by Resolution No. 2017-35. The request is to extend the commencement period for one (1) year to allow a multi-use development to be known as Northshore Palm Bay on property located south of the intersection of Robert J. Conlan Boulevard and the Florida East Coast Railway, in BMU (Bayfront Mixed Use District) zoning. This is the applicant's first request for an extension. The reasons for same are stated in the attached letter.

Staff Comments:

There were no adverse comments.

Resolution No. 2018-28, granting a one-year extension, has been prepared for consideration at tonight's meeting. If you should have any questions, please advise.

/tjl

Attachments

Case No. CU-34-2017

RESOLUTION NO. 2018-28

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING RESOLUTION NO. 2017-35, SECTION 3, BY EXTENDING THE COMMENCEMENT PERIOD OF THE CONDITIONAL USE GRANTED TO ALLOW A MULTI-USE DEVELOPMENT TO BE KNOWN AS NORTSHORE PALM BAY ON PROPERTY ZONED BMU (BAYFRONT MIXED USE DISTRICT); WHICH PROPERTY IS LOCATED SOUTH OF THE INTERSECTION OF ROBERT J. CONLAN BOULEVARD AND THE FLORIDA EAST COAST RAILWAY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 15, 2017, the City of Palm Bay granted a conditional use through Resolution No. 2017-35 to Palm City Investments, F.H., LLC, to allow a multi-use development to be known as Northshore Palm Bay in BMU (Bayfront Mixed Use District) zoning, and

WHEREAS, an additional one (1) year extension to the commencement period for the conditional use is being requested by Palm City Investments, F.H., LLC.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, that:

SECTION 1. The City Council of the City of Palm Bay hereby amends Resolution No. 2017-35, Section 3, to read as follows:

“Section 3. The modification to the conditional use must be commenced within two (2) years from the effective date of this resolution. Commencement shall mean the issuance of the appropriate permit(s), which must remain active. A building permit which must remain active. Failure to commence within two (2) years of issuance of the first permit shall void the conditional use.”

SECTION 2. The effective date of the commencement period, as amended, for the conditional use shall be determined from the effective date of Resolution No. 2017-35, enacted on August 15, 2017.

SECTION 3. This Resolution shall be recorded in the Public Records of Brevard County at the applicant's expense.

SECTION 4. This resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting No. 2018- , of the City Council of the City of Palm Bay, Brevard County, Florida, held on , 2018.

William Capote, MAYOR

ATTEST:


Terese M. Jones, CITY CLERK

Applicant: Palm City Investments, F.H., LLC
Case No.: CU-34-2017

cc: (date) Applicant
Case File
Brevard County Recording



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk 

DATE: August 2, 2018

SUBJECT: Conditional Use, Extension – Circle K Stores, Inc.

Circle K Stores, Inc. has requested an extension to the commencement period of the conditional use granted by Resolution No. 2017-23. The request is to extend the commencement period for six (6) months to amend an existing conditional use in order to expand retail automotive gas/fuel sales on property located at the southeast corner of Malabar Road and Jupiter Boulevard, in CC (Community Commercial District) zoning. This is the applicant's first request for an extension. The reasons for same are stated in the attached letter.

The conditional use expired on June 15, 2018.

Staff Comments:

There were no adverse comments.

Resolution No. 2018-29, granting a six-month extension, has been prepared for consideration at tonight's meeting. If you should have any questions, please advise.

/tjl

Attachments

Case No. CU-20-2017

RESOLUTION NO. 2018-29

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING RESOLUTION NO. 2017-23, SECTION 3, BY EXTENDING THE COMMENCEMENT PERIOD OF THE CONDITIONAL USE GRANTED TO AMEND AN EXISTING CONDITIONAL USE IN ORDER TO EXPAND RETAIL AUTOMOTIVE GAS/FUEL SALES ON PROPERTY ZONED CC (COMMUNITY COMMERCIAL DISTRICT); WHICH PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF MALABAR ROAD AND JUPITER BOULEVARD; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 15, 2017, the City of Palm Bay granted a conditional use through Resolution No. 2017-23 to Circle K Stores, Inc., to amend an existing conditional use in order to expand retail automotive gas/fuel sales in CC (Community Commercial District) zoning, and

WHEREAS, an additional six-month extension to the commencement period for the conditional use is being requested by Circle K Stores, Inc.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, that:

SECTION 1. The City Council of the City of Palm Bay hereby amends Resolution No. 2017-23, Section 3, to read as follows:

“Section 3. The modification to the conditional use must be commenced within one (1) year and six (6) months from the effective date of this resolution. Commencement shall mean the issuance of the appropriate permit(s), which must remain active. A building permit which must remain active. Failure to commence within one (1) year and six (6) months of issuance of the first permit shall void the conditional use.”

SECTION 2. The effective date of the commencement period, as amended, for the conditional use shall be determined from the effective date of Resolution No. 2017-23, enacted on June 15, 2017.

SECTION 3. This Resolution shall be recorded in the Public Records of Brevard County at the applicant's expense.

SECTION 4. This resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting No. 2018- , of the City Council of the City of Palm Bay, Brevard County, Florida, held on , 2018.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK


Applicant: Circle K Stores, Inc.
Case No.: CU-20-2017

cc: (date) Applicant
Case File
Brevard County Recording



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Memorandum of Understanding between the City of Melbourne and the City of Palm Bay, CHDO Funding Under the HOME Grant

The City of Palm Bay desires to enter into a Memorandum of Understanding with the City of Melbourne to support a Community Housing Development Organization (CHDO) project. The City Council approved this expenditure on August 3, 2017 as part of the adoption of the 2017-2018 CDBG/HOME Action Plan.

Support for the CHDO project is prorated through the Brevard County HOME Consortium.

REQUESTING DEPARTMENT:
Growth Management

FISCAL IMPACT:
This Memorandum of Understanding with the City of Melbourne will authorize a maximum of \$175,000.00 of Palm Bay CHDO funds to be transferred to the Melbourne CHDO project.

RECOMMENDATION:
Motion to authorize the City Manager to execute the Memorandum of Understanding.

Attachment: 1) Memorandum of Understanding between Palm Bay and Melbourne

EB/NJ/ab

**MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN THE CITY OF MELBOURNE and THE CITY OF PALM BAY**

This Memorandum of Understanding (“MOU”) is made and entered into by and between the City of Melbourne, a Florida municipal corporation (“Melbourne”) and the City of Palm Bay, a Florida municipal corporation (“Palm Bay”).

WITNESSETH

WHEREAS, the National Affordable Housing Act of 1990 has authorized the U.S. Department of Housing and Urban Development (hereinafter referred to as “HUD”) to provide financial assistance through the HOME Investment Partnerships Program (“HOME”) to local governments to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income families; and

WHEREAS, Brevard County, while eligible to receive HOME funds as an Urban County, is desirous of increasing local receipt of federal funding for the provision of affordable housing through an interlocal agreement; and

WHEREAS, pursuant to 24 CFR Part 92.101, Brevard County in partnership with the cities of Cocoa, Titusville, Melbourne and Palm Bay receives HOME funds through a consortium known as the Brevard County HOME Consortium established by that certain Interlocal Agreement Between Brevard County Florida, the City of Titusville, the City of Cocoa, the City of Melbourne and the City of Palm Bay Florida providing for Participation in the Formation of a Consortium Relating to the U.S. Department of HUD HOME Investment Partnerships Program dated July 11, 2000 as renewed (the “Interlocal”); and

WHEREAS, pursuant to the Interlocal, Melbourne and Brevard County entered into a disbursement agreement dated April 5, 2018 allocating HOME funds to Melbourne, which agreement is incorporated herein by reference; and

WHEREAS, pursuant to the Interlocal, Palm Bay and Brevard County entered into a disbursement agreement dated June 18, 2018 allocating HOME funds to Palm Bay, which agreement is incorporated herein by reference; and

WHEREAS, the Consortium HOME Investment Partnerships Program administered by Brevard County allows HOME consortium members to amend their budgets and share HOME funding to meet HOME expenditure deadlines; and

WHEREAS, Palm Bay desires to transfer \$175,000.00 in FY 2017-2018 HOME CHDO funds to Melbourne to construct affordable single-family rental housing for eligible low-income and very-low-income tenants located at 811 and 807 WH Jackson Street, Melbourne, FL 32901 (the “Project”).

The purpose of this MOU is to list the funding contributions from Palm Bay and Melbourne and the duties and responsibilities of both parties regarding the Project more particularly described in that certain Request for Proposal of the City of Melbourne identified as RFP 2017-2018 HOME Proposal-CHI, and corresponding proposal, as amended, and the funding agreement between the City of Melbourne and the approved Community Housing Development Organization (“CHDO”) related to the same. Melbourne will be responsible for the oversight, development and on-going HOME program monitoring of the Project in partnership with the approved CHDO in accordance with the CHDO program.

The parties understand and agree that the CHDO will be the Sponsor on the Project, acting in accordance with all HOME requirements for successful implementation of the Project. The City of Melbourne will require the CHDO to construct and complete construction on the project.

SECTION 1. FUNDING INCLUDING PROJECT SOURCES AND USES

1.1. Description of 811 WH Jackson Street

The maximum subsidy limits for this two-bedroom unit shall not exceed \$196,672.00 including the developer’s fee. The projected sources and used of funds are as follows:

| Description of Project Sources | Subsidy | Private Funds | Project Sources Total |
|---------------------------------------|---------------------|----------------------|------------------------------|
| Fair Housing Continuum | | \$ 30,000.00 | |
| Donated Land (Macedonia CDC) | | \$ 3,410.00 | |
| City of Palm Bay HOME CHDO Funds | \$ 168,124.07 | | |
| Project Sources | \$168,124.07 | \$33,410.00 | \$201,534.07 |

| Description of Project Uses | Amount |
|---|----------------------|
| New Construction (2 Bedroom, 2 Bath single family home Sprinkler System & Security Fence) | \$ 141,015.00 |
| Land Acquisition | \$ 3,410.00 |
| Professional Fees: Engineering, Survey, Appraisal | \$ 1,450.00 |
| Soft Costs: Building Permits, Impact fees (Melbourne and Brevard County, Appliances, Subsidy Layering Review) | \$ 17,701.15 |
| Financing Fees & Expenses: Project Developers Fee | \$ 19,175.67 |
| Contingency | \$ 18,782.25 |
| Project Uses Total | \$ 201,534.07 |

1.2. Description of 807 WH Jackson Street

The maximum subsidy limits for this three-bedroom unit shall not exceed \$254,431 including the developer's fee. The projected sources and used of funds are as follows:

| Description of Project Sources | Subsidy | Private Funds | Project Sources Total |
|--|---------------------|--------------------|-----------------------|
| Fair Housing Continuum | | \$ 30,000.00 | |
| Donated Land (Macedonia CDC) | | \$ 3,410.00 | |
| City of Melbourne HOME CHDO Funds | \$ 162,320.00 | | |
| City of Palm Bay CHDO Funds <i>(remaining CHDO funds from the \$175,000 allocation)</i> | \$ 6,875.93 | | |
| Project Sources | \$169,195.93 | \$33,410.00 | \$202,605.93 |

| Description of Project Uses | Amount |
|---|----------------------|
| New Construction (3 Bedroom, 2 Bath single family home Sprinkler System & Security Fence) | \$ 146,140.00 |
| Land Acquisition | \$ 3,410.00 |
| Professional Fees: Engineering, Survey, Appraisal | \$ 1,450.00 |
| Soft Costs: Building Permits, Impact fees (Melbourne and Brevard County, Appliances, Subsidy Layering Review) | \$ 17,701.15 |
| Financing Fees & Expenses: Project Developers Fee | \$ 19,290.51 |
| Contingency | \$ 14,614.27 |
| Project Uses Total | \$ 202,605.93 |

SECTION 2. MELBOURNE RESPONSIBILITIES

- 2.1. Melbourne shall perform CHDO program oversight and grant management to the CHDO during every phase of the project. Melbourne shall monitor compliance with HOME program requirements for the duration of the affordability period. The affordability period shall be defined as the first day after project completion in the disbursement and information system established by HUD. Project completion shall be defined as the date the project is completed and closed in the disbursement and information system. The affordability period shall be ensured through a lien on the property in the form of a Land Use Restriction Agreement.
- 2.2. The City will ensure all of HUD's HOME Program and applicable City of Melbourne and the Florida building code requirements are met by conducting inspections. Also, Melbourne shall ensure the CHDO meets income eligibility requirements and all HOME Program requirements.

- 2.3. Any and all copies of project documents, monitoring reports and any correspondence related to this project shall be provided to Palm Bay upon request.
- 2.4. All Program Income and recaptured funds generated by approved activities shall be retained, tracked and utilized for additional eligible activities by Melbourne.
- 2.5. Melbourne shall inspect the property throughout the construction period to ensure compliance with all HOME Program requirements.

SECTION 3. PALM BAY RESPONSIBILITIES

- 3.1. Palm Bay's role is to financially support the Projects and help make implementation of the Projects feasible. Palm Bay shall commit to providing HOME CHDO funds in the amount of \$175,000.00 to the Projects.
- 3.2. Palm Bay shall cooperate with Melbourne and Brevard County to authorize reimbursement from Brevard County to Melbourne (or the CHDO s Projects, as the case may be) pursuant to the Interlocal and the Consortium HOME Investment Partnerships Program administered by Brevard County, which program the parties understand and agree to allow HOME consortium members to amend their budgets and share HOME funding to meet HOME expenditure deadlines. Brevard County HOME Consortium Disbursement Agreement and shall be reimbursed \$175,000.00.

SECTION 4. OTHER PROVISIONS

- 4.1 The parties understand and agree that Brevard County may require each party to amend its Brevard County HOME Consortium disbursement agreement in order to reflect the \$175,000.00 CHDO funds transferred from Palm Bay to Melbourne as contemplated in this MOU.
- 4.2 If the funding agreement between Melbourne and the CHDO is terminated by either party or the Projects are not completed within the designated timeframes, Palm Bay shall not be obligated to contribute funding to the Projects.
- 4.3 In accordance with 24 CFR 85.43, suspension or termination may occur if Melbourne materially fails to comply with any term of this Agreement. The Agreement may also be termination for convenience in accordance with 24 CFR 85.44, which provides for termination for mutual convenience or partial termination for specified reasons.
- 4.4 Melbourne and Palm Bay hereby agree that the following events constitute a material failure sufficient to warrant suspension of payments:
 - a) Improper use of HOME funds.
 - b) Failure to comply with terms of this Agreement
 - c) Intentional submittal of incorrect or incomplete documentation in any material respect.

WITNESS OUR HANDS EFFECTIVE _____ 2018.

CITY OF MELBOURNE, a Florida
municipal corporation

CITY OF PALM BAY, a Florida
municipal corporation

Michael A. McNees
City Manager

Greg Lynk
City Manager

[City Seal]

[City Seal]

ATTEST:

ATTEST:


Cathy Wysor, City Clerk

Terese Jones, City Clerk



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Approval of amended cost to Roof Replacement on Police Headquarters through FEMA Hazard Mitigation Grant Program

On July 19, 2018 Council approved the memo titled "Request for Approval to Apply for Federal Emergency Management Association's (FEMA Region IV) Hazard Mitigation Grant Program for Hardening of Fire Station 2, 3, and 4, Acquisition of Repetitive Loss Properties on Cimarron Circle, Culvert Replacement for Ferguson Street, and Roof Replacement on Police Headquarters".

As each project is being submitted under a separate grant application, we are requesting approval of an amended application amount and corresponding 25% City match for the Roof Replacement on Police Headquarters only.

The amount approved on July 19th was for a grant amount of \$375,000, of which \$93,750 would be matched with General Fund by the City. Additional information has been provided with a proposal that determined the amount needed to replace PD Headquarters Roof is actually closer to \$650,000. These pertinent documents from the proposal are attached.

Therefore, the amended total amount we are applying for is \$650,000, of which \$162,500 would be matched with General Fund over the next two (2) fiscal years - 2019 and 2020. This results in an additional \$68,750 of matched funds being requested.

The application submission deadline is August 6, 2018 and will allow Police to replace the roof to harden Police Headquarters and meet current code.

REQUESTING DEPARTMENT:

Police Department

FISCAL IMPACT:

The City will have to provide additional matching funds in the amount of \$68,750 from General Fund balance, totaling \$162,500 throughout two (2) fiscal years.

RECOMMENDATION:

Motion to approve the amended FEMA Grant application submission proposal for Police.

Attachments: 1) approved Legislative Memorandum of July 19th
2) portion of proposal dated 10/12/16


LH/EB/JM/JR/su/ab



REVISED

LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: July 19, 2018

RE: Request for Approval to Apply for Federal Emergency Management Association's (FEMA Region IV) Hazard Mitigation Grant Program for Hardening of Fire Station 2, 3, and 4, Acquisition of Repetitive Loss Properties on Cimarron Circle, Culvert Replacement for Ferguson Street, and Roof Replacement on Police Headquarters.

Fire Rescue, Growth Management, Public Works, and Police Departments are seeking approval to apply for funds to harden Fire Station 2, 3, and 4, acquire properties on Cimarron Circle that have experienced repetitive loss due to flooding, replace the culvert for Ferguson Street, and replace the roof on Police Headquarters through FEMA's (Region IV) Hazard Mitigation Grant Program application process. Each project will be submitted under a separate grant application and requires matching funds of 25% of the total amount to be committed from the City if awarded. The application submission deadline is August 6, 2018.

If awarded, this grant will allow Fire Rescue department to replace all the windows, doors, and bay doors for Fire Stations 2, 3, and 4 and replace the roof on Fire Station 2 to all meet current code, in addition to acquiring two permanent generators that will fully power Fire Stations 2 and 3 during power outages, and acquiring a new Convault tank for Fire Station 4.

The total amount of the grant application is \$417,915, of which \$104,478.75 would be matched from General Fund by the City, if approved.

This grant will allow Growth Management to voluntarily acquire properties from homeowners whose homes have suffered repetitive losses due to flooding (Cimarron Circle). Growth Management would then be able to demolish the homes and create a retention pond that would mitigate future flooding issues for the other surrounding homes.

The total amount of the grant application is \$1,680,000, of which \$420,000 would be matched with CDBG Disaster Relief (DR) funds from the State to the City, if approved.

This grant will allow Public Works to replace the culvert on Ferguson St. with a bridge since the current culvert is undersized.

The total amount of the grant application is \$1,500,000, of which \$375,000 would be matched with Storm Water assessment fees by the City, if approved.

This grant will allow Police to replace the roof to harden Police Headquarters and meet current code.

The total amount of the grant application is \$375,000, of which \$93,750 would be matched with General Fund by the City, if approved.

REQUESTING DEPARTMENTS:

Fire Rescue Department, Growth Management Department, Public Works Department, Police Department

FISCAL IMPACT:

The City will have to provide matching funds in the amount of \$56,250 from General Fund balance for Fire Stations 2, 3, and 4 for FY19, and \$48,228.75 for FY20, \$420,000 from CDBG funds for FY19, \$375,000 from Storm Water assessment fees for FY19, and \$93,750 from General Fund balance for replacement of the police headquarters roof for FY19, if and when, the grants are awarded.

RECOMMENDATION:

Motion to approve the application submissions of the Federal Emergency Management Association's (Region IV) Hazard Mitigation Grant Program proposals for Fire Rescue, Growth Management, Public Works, and Police.

Attachment: 1) Hazard Mitigation Grant Program flyer from Brevard County Emergency Management

LH/EB/JM/JR/su/ab

Hazard Mitigation Grant Program

The Hazard Mitigation Grant Program (HMGP) is a Federal Emergency Management Agency (FEMA) program that funds mitigation efforts after a presidentially declared disaster. Grant funds are administered to eligible applicants through the Florida Division of Emergency Management (FDEM).

Florida is one of the only states that formally defines how HMGP funds are distributed to counties. Florida Administrative Code (27P-22.006) explains the process for calculating the amount of funds each declared county will be allocated and states that each project will be funded in order of priority as outlined in the Brevard County Local Mitigation Strategy.

Many prioritization procedures defined in LMS plans cause projects with many beneficiaries to score higher than projects with only limited beneficiaries. For example, retrofitting a fire station will benefit more people in the community than one family; therefore, it will likely be scored higher than a project that elevates one flood-prone home. Other factors such as cost, matching funds, and community support are often times also considered. To find out more about the Brevard County ranking process, please refer to the Local Mitigation Strategy at:

<http://www.brevardfl.gov/EmergencyManagement/Mitigation>

Mitigation is defined as any sustained action taken to reduce or eliminate loss of life and property from future disasters.

Eligibility

Mitigation projects must:

- Be consistent with the State Hazard Mitigation Plan
- Provide a long-term solution
- Be identified in the Brevard County LMS
- Be technically feasible
- Meet cost effectiveness criteria
- Meet all applicable environmental and historical regulations
- Identify a 25% non-federal cost share
- Be located in a community compliant with the National Flood Insurance Program's (NFIP) regulations

| Eligible Activities |
|--|
| Mitigation Projects |
| Property Acquisition and Structure Demolition |
| Property Acquisition and Structure Relocation |
| Structure Elevation |
| Mitigation Reconstruction |
| Dry Floodproofing of Historic Residential Structures |
| Dry Floodproofing of Non-residential Structures |
| Generators for Critical Facilities |
| Localized Flood Risk Reduction Projects |
| Non-localized Flood Risk Reduction Projects |
| Structural Retrofitting of Existing Buildings |
| Non-structural Retrofitting of Existing Buildings and Facilities |
| Safe Room Construction |
| Wind Retrofit for One- and Two-Family Residences |
| Infrastructure Retrofit |
| Soil Stabilization |
| Wildfire Mitigation |
| Post-Disaster Code Enforcement |

Eligible applicants include:

- State agencies
- Indian Tribal governments
- Local governments/communities (including school boards)
- Private Non-Profit organizations.

Application Process

The grant application and award process can be long. However, recent changes have significantly improved the length of time required for review and approval of projects. The basic HMGP process:

1. A major disaster occurs resulting in a presidential declaration.
2. Counties receive a 90-day estimate of their potential allocation amount.
3. LMS Working Groups meet to decide which projects they will submit for funding.
4. A lock-in amount is determined six (6) months after disaster declaration.
5. Applications are submitted to FDEM.
6. FDEM reviews applications for completeness and eligibility.
7. Applications are submitted to FEMA for final reviews and funding allocation.
8. Funding agreements are put in place between the applicant and FDEM.
9. Construction and quarterly report monitoring begin.
10. Projects are finished and closed out.

As with many grant programs, the HMGP process from application to closeout may take several years.



Facility Summary

Client: City of Palm Bay

Facility: Police Department



Facility Data

| | |
|------------------|----------------------------|
| Address 1 | 120 Malabar Road Southeast |
| City | Palm Bay |
| State | Florida |
| ZIP | 32909 |
| Type of Facility | Municipal |
| Square Footage | 30,000 |

Asset Information

| Name | Date Installed | Square Footage | Roof Access |
|-------------------|----------------|----------------|---------------------|
| Brick Restoration | | 30,000 | |
| Roof Inspection | 2001 | 30,000 | Internal Roof Hatch |



ROOF MEASUREMENT REPORT

120 Malabar Road Southeast, Palm Bay, FL 32909

Report Contents



| | |
|----------------------------|----|
| Images | 1 |
| Length Diagram..... | 4 |
| Pitch Diagram..... | 5 |
| Area Diagram | 6 |
| Penetrations Diagram | 7 |
| Notes Diagram | 8 |
| Property Info..... | 9 |
| Report Summary..... | 10 |

Report Details

| | |
|-----------|------------|
| Date: | 10/12/2016 |
| Report: | 16017960 |
| Building: | 2 |

Roof Details

| | |
|-------------------------------|--------------|
| Total Area: | 22,290 sq ft |
| Total Roof Facets: | 12 |
| Predominant Pitch: | 0/12 |
| Number of Stories: | >1 |
| Total Ridges/Hips: | 0 ft |
| Total Valleys: | 0 ft |
| Total Rakes: | 0 ft |
| Total Eaves: | 19 ft |
| Total Penetrations: | 46 |
| Total Penetrations Perimeter: | 368 ft |
| Total Penetrations Area: | 279 sq ft |

Contact Us

| | |
|----------|--|
| Contact: | Tony Connery |
| Company: | The Garland Company |
| Address: | 170 Spring Lake hills dr Altamonte Springs FL 32714 |
| Phone: | 9415242801 |

Measurements provided by www.eagleview.com



Certified Accurate

www.eagleview.com/Guarantee.aspx

In this 3D model, facets appear as semi-transparent to reveal overhangs.

This document is provided under License by EagleView Technologies to the requestor for their Internal Use Only subject to the terms and conditions previously agreed to by the requestor when they registered for use of EagleView Technologies Services. It remains the property of EagleView Technologies and may be reproduced and distributed only within the requestor's company. Any reproduction or distribution to anyone outside of the requestor's company without EagleView's prior written permission is strictly prohibited. All aspects and handling of this report are subject to the Terms and Conditions previously agreed to by the requestor.

Copyright ©2008-2016 EagleView Technologies, Inc. – All Rights Reserved– Covered by U.S. Patent Nos. 8,078,436; 8,145,578; 8,170,840; 8,209,152; 8,515,125. Other Patents Pending.






Solution Options

Client: City of Palm Bay

Facility: Police Department

Roof Section: Roof Inspection

Replace Options

| | | | |
|-------------------------|---|-------------------------------|------|
| Solution Option: | Replace  | Action Year: | 2018 |
| Square Footage: | 30,000 | Expected Life (Years): | 40 |
| Budget Range: | \$550,000.00 - \$650,000.00 | | |

Replacement option includes:

40 Year NDL warranty on 2 ply modified system. Given the insulation condition revealed by recent IR scan, an overlay would also be an option which would save approximately 10% of the total budget range.

Budget also includes new ANSI SPRI compliant coping cap, applicable new counter-flashing, pitch pans as well as other applicable new roof assembly components.

Given the budget estimate of approximately \$600,000 - material cost would make up approximately \$250,000 while roofing/contractor labor would round out the remaining \$350,000. Keep in mind that this is not a bid and is only an estimate based on similar project experience. To obtain a formal number that can be executed through a contract, contractor bids would need to be received.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager

DATE: August 2, 2018

RE: Travel Request- Police Department

A handwritten signature in blue ink, appearing to read "Gregg Lynk".

The Police Department is requesting permission for the following employees to travel for business purposes:

Officer Greg Moore will be traveling to Jacksonville, Florida from November 4-9, 2018 to attend Pedestrian/Bicycle Crash Investigations training. The registration is \$795.00 (we are trying to get this covered by a grant), lodging is estimated at \$465.00 and per diem is \$200.00. The approximate total cost without a grant is \$1,460.00. These costs will be paid from the Uniform Services accounts.

Lt. Christopher Imel will be traveling to Jacksonville, Florida from October 7-12, 2018 to attend Drug Unit Commander training. The registration is \$795.00, lodging is estimated at \$465.00 and per diem is \$200.00. The approximate total is \$1,460.00. These costs will be paid from the Special Operations accounts.

Officer Reed Caswell will be traveling to Hoover, Alabama from August 12 - September 14, 2018 to attend Basic Computer Evidence Training (BCERT) at the National Computer Forensic Institute. There will be zero cost to the city, as everything is paid by the US Secret Service.

Bridget Eakins will be traveling to Miami, Florida from October 21-26, 2018 to attend International Forensic Photography training. The registration is \$825.00, lodging is estimated at \$700.00, per diem is estimated at \$320.00, and parking is estimated at \$125.00. The approximate total is \$1,970.00. These costs will be paid from the Investigations accounts.

REQUESTING DEPARTMENT:

Police Department

FISCAL IMPACT:

All travel is budgeted.

RECOMMENDATION:

Motion to acknowledge and approve travel as mentioned above.

JR/ab



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

DATE: August 2, 2018

SUBJECT: Scheduling Workshop Meetings

A handwritten signature in blue ink, likely belonging to Terese M. Jones, the City Clerk.

Staff would like to schedule the following workshop meetings:

**THURSDAY, AUGUST 9, 2018
6:00 P.M.**

WORKSHOP – BUDGET

**WEDNESDAY, AUGUST 22, 2018
6:00 P.M.**

**WORKSHOP – BUSINESS DEVELOPMENT
DISTRICT/PERMITTING PROCESS**

**THURSDAY, AUGUST 23, 2018
6:00 P.M.**

WORKSHOP – BUDGET

REMINDER: The regular Council meeting scheduled for Thursday, August 16th, was rescheduled to Tuesday, August 14th.


The matter is presented to Council for consideration at tonight's meeting. If you should have any questions, please advise.

/tmj



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Unit 31 Roads Initial Assessment Resolution

The Public Works Department is requesting the adoption of the Unit 31 Roads Initial Assessment Resolution. The revenue derived from the assessment will be used to reconstruct roads in Unit 31 and some benefitting parcels outside of, but adjacent to Unit 31. The assessment insures an equitable and efficient method of allocating and apportioning road construction costs among benefited properties.

REQUESTING DEPARTMENTS:

Public Works Department, City Attorney's Office, City Manager's Office

FISCAL IMPACT:

The Brevard County Tax Collection office can place up to a 2% fee for processing our Stormwater Utility service fees.

RECOMMENDATION:

Motion to approve the Unit 31 Roads Initial Assessment Resolution.

Attachments: 1) Stantec Final Report
2) Copy of Unit 31 Roads Initial Assessment Resolution

JM/GS/ab



City of Palm Bay, FL

Unit 31 Roads Assessment – 3rd Revised Final Report

July 27, 2018





July 27, 2018

Mr. Gregory Stone, PMP
City of Palm Bay
Special Projects Division
Manager
120 Malabar Road
Palm Bay, FL 32907

Re: Unit 31 Roads Assessment
– Revised Final Report

Dear Mr. Stone

Stantec is pleased to present this Final Report of the Unit 31 Roads Assessment that we have performed for the City of Palm Bay (The City).

We appreciate the fine assistance provided by you and all of the members of City staff who participated in the analysis.

If you or others at the City have any questions, please do not hesitate to call me at (904) 923-1466 or email me at michael.burton@stantec.com. We appreciate the opportunity to be of service to the City and look forward to working with you again in the near future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Burton".

Michael Burton
Vice President

200 Business Park Circle, Suite 101
St. Augustine, FL 32095
michael.burton@stantec.com

Enclosure

TABLE OF CONTENTS

| | |
|---|----------|
| 1. Introduction..... | 2 |
| 1.1 Study Objective & Procedure..... | 2 |
| 2. Project Description..... | 3 |
| 2.1 Assessment Area..... | 3 |
| 2.2 Project Costs of Proposed Improvements | 3 |
| 3. Special Assessment Methodology..... | 5 |
| 3.1 Florida Law Governing Special Assessments | 5 |
| 4. Assessment Calculation | 9 |
| 4.1 Net Revenue Requirement | 9 |
| 4.2 Property Data and Assessment Units..... | 10 |
| 4.3 Assessment Rate Calculation | 11 |

1. INTRODUCTION

Stantec Consulting Services Inc. has conducted a Non-Ad Valorem Assessment Study (Study) to develop a Non-Ad Valorem Assessment for the City of Palm Bay (the City) to fund capital improvements to local roads (Road Assessment Program) within Port Malabar Unit 31 (Unit 31) and several connecting roads bordering Unit 31 (Assessment Area) within the City. This report presents the objectives, approach, methodologies, source data, assumptions, as well as the findings and recommendations of the Study.

Pursuant to Section 6.02 of the City Charter, the City has the authority to impose special assessments for the construction, reconstruction, repair and related maintenance of all roads and streets. As such, the City desires to create a Road Assessment Program that would recover the full capital costs to provide paved and improved roads to Unit 31. The methodology utilized within this study relies upon current property and cost data to create a fair and equitable assessment.

1.1 STUDY OBJECTIVE & PROCEDURE

The objective of this Study is to develop a non-ad valorem assessment program to recover the full capital cost requirements of providing improved roads to properties within the Assessment Area. The costs associated with these improvements must be recovered in proportion to the benefit received from these services provided by the City.

The Study first identifies the recommended improvements as provided by the City and their associated cost requirements, recognizing the high level of service traditionally provided by the City.

The revenue requirement was then apportioned to vacant and improved residential and non-residential property classes based upon property data obtained from the Brevard County Property Appraiser's Office (Property Appraiser) and Graphical Information System (GIS) data provided by the City. Once the allocations were complete, Assessment rates were developed, the results of which are presented herein.

2. PROJECT DESCRIPTION

2.1 ASSESSMENT AREA

The Assessment Area consists of 1,954 parcels within Unit 31 and 21 parcels outside of the boundary of Unit 31 fronting the south side of JT Sancho Road from the culvert east of Hagoplan Road to the west end of JT Sancho Road as recorded by the Property Appraiser and reviewed by the City. Appendix A provides a map of the Assessment Area indicating the location of the project and proposed road improvements.

2.2 PROJECT COSTS OF PROPOSED IMPROVEMENTS

The City has identified the probable costs for the paving and improvement of the road network throughout the Assessment Area. The City has identified two level of service standards for these improvements as follows:

Option 1: DCS (Double-Chip and Seal)

Under this improvement option, the City will complete a full depth reclamation (FDR) process to stabilize the base then place a double chip and seal (DCS) driving surface. Roads which currently have a Pavement Condition Index (PCI) greater than 80 will be milled and resurfaced with Superpave. 99,599 linear feet (lf)/18.9 miles will get FDR/DCS treatment while 116,321lf/2.2 miles will be milled and resurfaced with Superpave for a total of 111,191 lf/21.1 miles of road to be resurfaced. All drainage repairs and improvements will be funded from the storm water utility and therefore not included in the assessment calculation.

Option 2: Superpave

This option includes a FDR process to stabilize the base then pave the driving surface with Superpave. Roads which currently have a PCI greater than 80 will be milled and resurfaced with Superpave. 99,599 lf/18.9 miles will get FDR/Superpave treatment, 116,321lf/2.2 miles will be milled and resurfaced with Superpave, and 2,700 lf/.5 miles of recently FDR/DCS roads will get Superpave for a total of 113,891 lf/21.6 miles of road to be resurfaced. All drainage repairs and improvements will be funded from the storm water utility and therefore not included in the assessment calculation.

Probable costs for these improvements are shown in Table 1. The City's proposed financing plan for the project consists of the issuance of a debt instrument to be issued and repaid through this Assessment.

Table 1 – Unit 31 Roads Assessment Probable Costs

| Description | Option 1: DCS | Option 2: Superpave |
|--------------------------|--------------------|---------------------|
| Cost | \$4,327,102 | \$6,216,001 |
| Overhead Costs | \$1,298,131 | \$1,864,800 |
| Total¹ | \$5,625,233 | \$8,080,801 |

¹ Includes Engineering and CEI costs.

3. SPECIAL ASSESSMENT METHODOLOGY

The development of a non-ad valorem assessment to fund roads improvements requires that the improvements for which properties are to be assessed confer a special benefit upon the property burdened by the special assessment. Simply stated, there must be a logical relationship between the services and facilities provided and the benefit to real property assessed.

In addition to the special benefit requirement, the costs associated with providing the services and facilities must be reasonably apportioned to the properties that receive a benefit from the improvements in proportion to the benefit received. Therefore, the recommended assessments calculated in this study were developed such that the costs incurred by the City in improving these roads will be recovered through assessments to properties in proportion to the benefit received by the availability of the improved roads to all properties within the Assessment Area.

This section describes the assessment methodology used to develop the Roads Assessment. The first sub-section discusses relevant Florida Law regarding special non-ad valorem assessments, followed by sections discussing how Florida Law has been applied to the determination of special benefit and the apportionment of revenue requirements of the assessment to benefitting properties.

3.1 FLORIDA LAW GOVERNING SPECIAL ASSESSMENTS

This section discusses relevant Florida Law regarding special non-ad valorem assessments as it relates to the proposed Roads Assessment. The discussion covers how Florida law relates to special benefit and proportional benefit.

Special non-ad valorem assessments are a revenue source available to local governments in Florida to fund operations and maintenance expenses and capital improvements for essential services such as roads, drainage, fire protection services, utilities, etc.

Pursuant to Florida case law, two requirements must be satisfied for the imposition of a valid non-ad valorem special assessment. These two requirements have become known as the two-pronged test. They are 1) the property assessed must derive a special benefit from the services or assets provided, and 2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.

In considering special benefit, the following question must be considered: “Can a special benefit be derived from the improvements by all properties within the Assessment Area to meet the first prong of the two-pronged test, even if all properties are not yet improved?”. The answer is yes, based in part upon the Florida Supreme Court determination in Meyer v. City of Oakland Park where the Court upheld a sewer assessment on both improved and unimproved property, stating that the benefit need

not be direct or immediate but must be substantial, certain and capable of being realized within a reasonable time². Road improvements were determined to provide special benefit per Atlantic Coast Line R. Co. v. City of Gainesville³ and Bodner v. City of Coral Gables⁴. In City of Hallandale v. Meekins⁵ the Court indicated that the proper measure of benefits accruing to property from the assessed improvement was not limited to the existing use of the property but extended to any future use which could reasonably be made.

It is well settled under Florida law that local governments are afforded great latitude regarding legislative determinations of special benefit and reasonable apportionment of costs. Specifically, the Florida Supreme Court has held that in cases where valid alternative methods of apportionment exist, the legislative body's determination should be upheld, unless that determination was arbitrary, and a court should not substitute its judgment for that of the local legislative body. In City of Boca Raton v. State of Florida⁶ the Florida Supreme Court stated that the apportionment of benefits is a legislative function, and if reasonable persons may differ as to whether the land assessed was benefitted by the local improvement, the findings of the City officials must be sustained. Further, in City of Boca Raton v. State of Florida the Florida Supreme Court also determined that the manner of the assessment is immaterial and may vary within the City, if the amount of the assessment for each tract is not in excess of the proportional benefits as compared to other assessments on other tracts. A local government can assign to each property, which is subject to the assessment, a different category designation with each category having a different assessment rate.⁷

Special Benefit – The First Prong of the Two-Pronged Test

All tax parcels, developed and undeveloped, are benefitted by the mere availability of a paved and improved roads network infrastructure. Such benefit is independent of whether the property is developed or not. The benefits include:

- Increasing, establishing, and preserving adequate ingress and egress to all properties within the assessment area.
- Enhanced property and rental value, marketability of and/or ability to develop property.

² Meyer v. City of Oakland Park, 219 So.2d 417 (Fla. 1969)

³ Atlantic Coast Line R. Co. v. City of Gainesville, 91 Sc.118 (Fla. 1922)

⁴ Bodner v. City of Coral Gables, 245 So.2d 250 (Fla. 1971)

⁵ City of Hallandale v. Meekins, 237 So.2d 318 (Fla. 4th DCA 1970), aff'd, 245 So.2d 253 (Fla 1971)

⁶ City of Boca Raton v. State of Florida, 595 So.2d 25 (1992)

⁷ Workman Enterprises, Inc. v. Hernando County, 790 So.2d 598 (Fla. 5th DCA 2001); Desiderio Corp. v. City of Boynton Beach, 39 So. 3d 487, 498 (Fla. 4th DCA 2010)

- Facilitating access to and delivery of essential services, including but not limited to: fire rescue, emergency medical services, solid waste collection, law enforcement, postal delivery, and transportation of students by the School Board.
- Increased use and enjoyment of the parcel derived from continuously and immediately available improved roads.
- Enhanced marketability and value of the parcel when compared to a similarly situated parcel for which roads are not improved to the same level of standard or are otherwise more difficult to access.

The mere availability of an improved road network benefits each parcel because each property owner will have more reliable access to their parcel whether already developed or currently undeveloped but with the potential to be developed in the future.

Therefore, the first prong of the two-pronged test (the property burdened by the assessment must derive a special benefit from the service provided by the assessment) is met because each parcel will receive a special benefit from the availability of improved roads provided by the City.

Fair and Reasonable Apportionment – The Second Prong of the Two-Pronged Test

In considering the assessment methodology, the second prong of the two-pronged test requires that the costs of the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit. In this Study we have developed an apportionment methodology based upon the availability of improved roads to all parcels abutting the roads or parcels that must use the roads for ingress or egress, improved and un-improved.

Apportionment of Benefits to Properties

Our analysis of the Assessment Area is based upon an Equivalent Assessment Unit (EAU) which was determined by an evaluation of the parcels within the Assessment Area and their current and potential property use based on the City's Land Development Code (LDC). Properties within the Assessment Area (which includes all parcels that will receive a special benefit from the proposed improvements described herein) were classified as either (1) Non-Residential or (2) Residential based upon the property type and use code description.

- Non Residential zoned parcels (NC):
 - Undeveloped and developed Non-Residential properties were apportioned EAU's based upon their allowable density as determined by their LDC zoning classification.
 - Zoning Classification NC: minimum lot size = 10,000 square feet or approximately 0.23 acres (i.e. maximum allowable density for a 1 acre parcel is 4 EAUs)
- Residential zoned parcels (RS-2 and SRE,):

- Developed residential parcels were assigned one EAU per platted lot. In circumstances where a parcel consists of two or more platted lots, a visual analysis was performed to determine the potential future development capability of said parcel. In these instances, the determined development potential was determined to be no greater than the maximum allowable density based upon their zoning classification in the City's LDC.
- Undeveloped platted residential parcels were assigned the number of benefitting dwelling units based on the number of platted lots within the parcel and apportioned one EAU per dwelling unit.
- Undeveloped unplatted residential parcels were assigned the number of benefitting dwelling units based upon the allowable density based on their LDC zoning classification and apportioned one EAU per dwelling unit.
 - Zoning Classification RS – 2: minimum lot size = 7,500 square feet or approximately 0.17 acres (i.e. maximum allowable density for a 1 acre parcel is 5 single-family lots)
 - Zoning Classification SRE: minimum lot size = 8,000 square feet or approximately 0.18 acres (i.e. maximum allowable density for a 1 acre parcel is 5 single-family lots)

Discussion of the Apportionment Methodology

The methodology is a benefit-based approach, which is the legal requirement for a non-ad valorem assessment. Therefore, this methodology does not rely upon demand-based trip generation data directly because of the large number of vacant parcels; however, each EAU when developed will be expected to produce on average a similar number of vehicular trips. In addition, the recommended methodology herein focuses on benefit to the property based upon the availability of the improved roads network allowing property owners access to and from their property to and from major collector roads within the City which is an appropriate matching of benefit received and recognizes the benefit to all properties regardless of whether or not trips are actually made to and from any class of properties or individual properties. This methodology recognizes two important facts:

- First and foremost, the Road improvements to be made by the City will be ready and available to be driven on to access property within the Assessment Area.
- The projects to be funded from this assessment result in improvements to roads that are “local” or primarily exist to provide access to these parcels for the property owners.

Therefore, the second prong of the two-pronged test is met by the recommended fair apportionment of costs based upon benefit embodied in this cost apportionment approach.

4. ASSESSMENT CALCULATION

This section presents the results of the Assessment calculations and our recommendations based upon those results.

4.1 NET REVENUE REQUIREMENT

The Net Revenue Requirement (NRR) will be the basis for the Assessment calculations. The projection of costs is used to identify the assessment rates necessary to fully fund the improvements and associated annual debt service payments (the Maximum Assessment Rate). The NRR and projected costs are based upon the proposed project costs as provided by the City at the time of this analysis.

Projection of the Net Revenue Requirement

To calculate the NRR, the probable improvement costs were provided by City Staff. In addition, associated legal and consulting fees related to the development and implementation of this Assessment were included. For those property owners that choose to pay the assessment annually, a 5% collection cost and non-collection contingency was included along with the Statutory Discount of 4% for early payment discounts to determine the annual assessment revenue requirement. The projection of the NRR for each option is presented in Tables 2 and 3 while Tables 4 and 5 summarize the sources and uses of funds. The financing terms are assumed to include the following and are based upon the assumption that the debt issued will be in the form of a revenue bond⁸:

- Term of 15 years consisting of 30 semi-annual interest payments
- Interest rate equal to 3.5%
- Debt service reserve fund equal to one year of debt service
- Costs of issuance equal to 2% of the par amount

⁸ Financing terms are based upon assumptions as stated herein and will be finalized when debt issuance occurs.

The NRR is 100% Cost Recovery for the assessments calculated herein.

Table 2 – Net Revenue Requirement Calculation – Option 1: DCS

| Unit 31 Net Revenue Requirement Calculation | | |
|---|-----------|------------------|
| DCS Cost | \$ | 5,625,233 |
| Superpave Cost | \$ | - |
| Consulting Fees | \$ | 15,994 |
| Legal Fees | \$ | 58,500 |
| Total Capital Costs | \$ | 5,699,727 |
| Cost Recovery | | 100% |
| Adjusted Capital Costs | \$ | 5,699,727 |

Table 3 – Net Revenue Requirement Calculation – Option 2: Superpave

| Unit 31 Net Revenue Requirement Calculation | | |
|---|-----------|------------------|
| DCS Cost | \$ | - |
| Superpave Cost | \$ | 8,080,801 |
| Consulting Fees | \$ | 15,994 |
| Legal Fees | \$ | 58,500 |
| Total Capital Costs | \$ | 8,155,295 |
| Cost Recovery | | 100% |
| Adjusted Capital Costs | \$ | 8,155,295 |

Table 4 – Sources and Uses – Option 1: DCS

| | | | |
|----------------------|------|-----------|------------------|
| Proceeds | | \$ | 5,699,727 |
| Cost of Issuance | 2.0% | \$ | 127,628 |
| Debt Service Reserve | | \$ | 554,067 |
| Par Amount | | \$ | 6,381,423 |

Table 5 – Sources and Uses – Option 2: Superpave

| | | | |
|----------------------|------|-----------|------------------|
| Proceeds | | \$ | 8,155,295 |
| Cost of Issuance | 2.0% | \$ | 182,614 |
| Debt Service Reserve | | \$ | 792,772 |
| Par Amount | | \$ | 9,130,681 |

4.2 PROPERTY DATA AND ASSESSMENT UNITS

The basis for creating the Assessment calculations and associated assessment roll is the parcel database as provided by the Property Appraiser. The property database includes 1,963 parcels within Unit 31 and 21 parcels located outside of Unit 31 that are included in the Assessment Area as receiving

benefit. Each parcel was assigned a number of EAUs for purposes of the assessment calculations based upon the type of property, acreage, and other factors as described herein.

Exempt and Excluded Properties

There is a distinction between exempt and excluded parcels. Certain tax parcels are exempt by State statutes or case law from non-ad valorem assessments such as this Assessment even those that benefit. Such exempt parcels are included in the cost apportionment but will not be billed an assessment, or if billed may not pay the assessment. The unrecovered revenue will be funded through other City general revenues. To identify the exempt parcels, the use codes assigned to each property by the Property Appraiser were utilized.

Parcels that are excluded from this assessment because they receive no benefit from road improvements, are lake bottoms, marshes, and other property types that will likely never develop. The excluded properties are identified by the property use codes contained in the Property Appraiser's database.

This study has assumed the required exemptions for City, County, State, and Federal properties. For purposes of this assessment it is assumed that the City will not impose any elective exemptions for properties coded as Not-for-profit in the Property Appraiser's database.

4.3 ASSESSMENT RATE CALCULATION

Identification of Assessment Units

The following steps were taken to populate assessment units for the assessment rate calculations:

1. All parcels identified as not receiving any benefit from the proposed improvements were excluded from the EAU calculation.
2. All remaining parcels exempt or otherwise located within the Assessment Area were identified by the full parcel database and were included in the determination of the number of EAUs to be included for each parcel and in total.

Table 6 presents the total parcels within the Assessment Area and provides the excluded parcels (not benefitted or otherwise excluded), exempt parcels, and determination of total EAUs within the Assessment Area by their corresponding use code and class.

Table 6 – Equivalent Assessment Units

| UNIT 31 ASSESSMENT AREA | | | | | | | | |
|-------------------------|--|--------|---------------|------------------------|---------------------|----------------------------|------------------|---------------|
| Code | UseCodeDesc | | | | | Assessment Methodology | (Less: Excluded) | (Less:Exempt) |
| | | Exempt | Total Parcels | Not Benefitted Parcels | Benefitting Parcels | | Apportioned EAUs | |
| 1000 | C-VACANT COMMERCIAL LAND | N | 2 | - | 2 | Acreage N/A DU DU | 26 | 26 |
| 164 | R-RESIDENTIAL IMPROVEMENT NOT SUITABLE FOR OCCUPANCY | N | 1 | - | - | | - | - |
| 110 | R-SINGLE FAMILY RESIDENCE | N | 541 | 3 | 538 | | 572 | 572 |
| 10 | R-VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | N | 1,431 | 21 | 1,410 | | 1,520 | 1,520 |
| Total | | | 1,975 | 24 | 1,950 | | 2,118 | 2,118 |

| UNIT 31 ASSESSMENT AREA | | | | | | | | |
|---|--|--|---------------|------------------------|---------------------|------------------|------------------|---------------|
| Land Development Code Zoning Classification | | | | | | | (Less: Excluded) | (Less:Exempt) |
| | | | Total Parcels | Not Benefitted Parcels | Benefitting Parcels | Apportioned EAUs | Billed EAUs | |
| NC | NC Neighborhood Commercial District | | 2 | - | 2 | | 26 | 26 |
| RS-2 | RS-2 - Single-family Residential District | | 3 | - | 3 | | 39 | 39 |
| SRE | SRE - Suburban Residential Estate Category | | 1,970 | 25 | 1,945 | | 2,053 | 2,053 |
| Total | | | 1,975 | 25 | 1,950 | | 2,118 | 2,118 |

Unity of Title

Property owners of a parcel which consists of more than one lot may elect to declare a “Unity of Title” which would voluntarily legally restrict or limit the use of additional lots/units within the parcel. For example, a property owner of a parcel with three combined lots may make a declaration of “Unity of Title” on either one or two of the lots/units therefore reducing the assigned EAUs and amount of assessment, but also limiting the ability of the property owner to further develop said parcel beyond the lots/units declared in the unity of title declaration.

As such, for purposes of calculating a maximum assessment rate, assumptions have been made herein regarding assumed “Unity of Title” declarations that may be made by affected property owners. The assumptions made are that all parcels with 5 or fewer lots/units will elect a unity of title to one lot/unit, and all parcels with greater than 5 lots/units will elect a unity of title to one half of the original lots/units. Therefore, the assessments presented herein represent a reasonable maximum assessment amount and to the extent that fewer parcels make a unity-of-title election, the final assessments will be less than presented here.

Full Cost Recovery Rate Calculation

Property owners have two options for payment of the assessment; 1) prepay their apportioned costs, or 2) make annual assessment payments over 15 years. To calculate the full cost recovery assessments, we utilized the apportioned costs and total assessable units per property classification as identified in the previous sub-sections of this report. The full cost is apportioned to all properties included within the assessment area. While exempt properties are included in the apportionment, their assessment will be paid by the City from other legally available revenues. The costs were divided by the number of EAUs identified to compute the Assessment per EAU as shown in Table 7 and 8 for Options 1 and 2 respectively.

Table 7 – Full Cost Recovery Option 1: DCS⁹

| Unit 31 Pre-Payment Assessment Calculation | |
|--|--------------|
| Adjusted Capital Costs | \$ 5,699,727 |
| Equivalent Assessment Units | 1,993 |
| Pre-payment Assessment per EAU | \$ 2,860 |

Table 8 – Full Cost Recovery Option 2: Superpave¹⁰

| Unit 31 Pre-Payment Assessment Calculation | |
|--|--------------|
| Adjusted Capital Costs | \$ 8,155,295 |
| Equivalent Assessment Units | 1,993 |
| Pre-payment Assessment per EAU | \$ 4,092 |

Property owners have the option to pay their apportioned costs for the project as shown in Tables 7 and 8 or to pay the assessment through the non-ad-valorem assessment portion of their Brevard County property taxes. In this case, certain costs are borne related to the acquisition of debt financing to pay for the project and the administration of the annual assessment including:

- Costs related to the issuance of debt and associated interest,
- Collection costs of 5% for administration, billing, collection, and a non-collection contingency,
- Statutory discount of 4% for early payments of Brevard County taxes.

Tables 9 and 10 present the estimated annual assessment at full cost recovery for options 1 and 2 respectively.

⁹ EAUs adjusted based upon assumed "Unity of Title" declarations.

¹⁰ EAUs adjusted based upon assumed "Unity of Title" declarations.

Table 9 – Annual Assessment: Option 1: DCS¹¹

| Unit 31 Annual Assessment Calculation | | | |
|---------------------------------------|-----------------|-------------|------------------|
| Proceeds | | \$ | 5,699,727 |
| Cost of Issuance | 2.0% | \$ | 127,628 |
| Debt Service Reserve | | \$ | 554,067 |
| Par Amount | | \$ | 6,381,423 |
| | Interest | Term | |
| | 3.5% | 15 | |
| Annual Debt Service Component | | \$ | 554,067 |
| Collection Cost Component | 5.0% | \$ | 27,703 |
| Statutory Discount Amount | 4.0% | \$ | 22,163 |
| Total Annual Project Costs | | \$ | 603,934 |
| | | | |
| Equivalent Assessment Units | | | 1,993 |
| Annual Assessment per EAU | | \$ | 303 |

Table 10 – Annual Assessment: Option 2: Superpave¹²

| Unit 31 Annual Assessment Calculation | | | |
|---------------------------------------|-----------------|-------------|------------------|
| Proceeds | | \$ | 8,155,295 |
| Cost of Issuance | 2.0% | \$ | 182,614 |
| Debt Service Reserve | | \$ | 792,772 |
| Par Amount | | \$ | 9,130,681 |
| | Interest | Term | |
| | 3.5% | 15 | |
| Annual Debt Service Component | | \$ | 792,772 |
| Collection Cost Component | 5.0% | \$ | 39,639 |
| Statutory Discount Amount | 4.0% | \$ | 31,711 |
| Total Annual Project Costs | | \$ | 864,121 |
| | | | |
| Equivalent Assessment Units | | | 1,993 |
| Annual Assessment per EAU | | \$ | 434 |

Assessment Roll

The complete assessment roll will be provided to the City electronically.

¹¹ EAUs adjusted based upon assumed "Unity of Title" declarations.

¹² EAUs adjusted based upon assumed "Unity of Title" declarations.

Disclaimer

This document was produced by Stantec Consulting Services, Inc. ("Stantec") for the City of Palm Bay and is based on a specific scope agreed upon by both parties. Stantec's scope of work and services do not include serving as a "municipal advisor" for purposes of the registration requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission. Stantec is not advising the City of Palm Bay, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, terms, or other similar matters concerning such products or issuances.

In preparing this report, Stantec utilized information and data obtained from City of Palm Bay or public and/or industry sources. Stantec has relied on the information and data without independent verification, except only to the extent such verification is expressly described in this document. Any projections of future conditions presented in the document are not intended as predictions, as there may be differences between forecasted and actual results, and those differences may be material.

Additionally, the purpose of this document is to summarize Stantec's analysis and findings related to this project, and it is not intended to address all aspects that may surround the subject area. Therefore, this document may have limitations, assumptions, or reliances on data that are not readily apparent on the face of it. Moreover, the reader should understand that Stantec was called on to provide judgments on a variety of critical factors which are incapable of precise measurement. As such, the use of this document and its findings by City of Palm Bay should only occur after consultation with Stantec, and any use of this document and findings by any other person is done so entirely at their own risk.

RESOLUTION NO. 2018-30

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, RELATING TO THE CONSTRUCTION AND FUNDING OF THE PORT MALABAR UNIT 31 ROAD IMPROVEMENT PROJECT WITHIN THE CITY OF PALM BAY; ESTABLISHING THE TERMS AND CONDITIONS OF PROPOSED SPECIAL ASSESSMENTS TO FUND THE PORT MALABAR UNIT 31 ROAD IMPROVEMENT PROJECT; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED ASSESSMENTS AND THE METHOD OF THEIR COLLECTION; DIRECTING THE PROVISION OF NOTICE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF PALM BAY, FLORIDA, AS FOLLOWS:

ARTICLE I DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires.

"Adjusted Prepayment Amount" means (A) the amount required to prepay the Assessment for each Tax Parcel located within the City (1) following issuance of any Temporary Original Obligations as computed pursuant to Section 3.04(B) hereof and revised annually pursuant to Section 3.05(I) hereof, (2) following the issuance of the Permanent Original Obligations, as computed pursuant Section 3.04(C) hereof and revised annually pursuant to Section 3.05(I) hereof, and (3) following issuance of any Refunding Obligations, as computed pursuant to Section 3.04(D) hereof and revised annually pursuant to Section 3.05(I) hereof; and (B) the comparable prepayment amounts computed and revised for each Tax Parcel against which a special assessment has been imposed to finance other Local Improvements, if any, funded from proceeds of the Obligations.

"Annual Debt Service Component" means the amount computed for each Tax Parcel pursuant to Section 3.05(E) hereof.

"Annual Debt Service Factor" means the factor computed pursuant to Section 3.05(D) hereof.

"Assessment" means an annual special assessment imposed against property located within the Assessment Area to fund the Project Cost of the Port Malabar Unit 31 Road Improvement Project to serve the Assessment Area and related expenses, computed in the manner described in Section 3.05 hereof.

"Assessment Period" means the time period estimated by the City during which Assessments are imposed for any portion of the Obligations that remain outstanding unless otherwise prepaid pursuant to Sections 3.06 or 3.07 hereof. The Assessment Period shall be 15 years.

"Assessment Roll" means a non-ad valorem assessment roll relating to the Project Cost of the Port Malabar Unit 31 Road Improvement Project to serve the Assessment Area and related expenses.

"Building" means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes.

"Capital Cost" means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, and installation (including demolition, environmental mitigation and relocation) of the Project and imposition of the Assessments under generally accepted accounting principles; and including reimbursement to the City

for any funds advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

"City Manager" means the chief executive officer of the City, or such person's designee.

"Collection Cost" means all or any portion of the estimated cost to be incurred by the City during any Fiscal Year in connection with the collection of Assessments.

"Collection Cost Component" means the amount computed for each Tax Parcel pursuant to Section 3.05(F) hereof.

"Council" means the City Council of Palm Bay, Florida.

"Debt Service Amount" means the amount computed pursuant to Section 3.05(A) hereof.

"Declaration of Unity of Title" means a condition, restriction, and limitation that a property owner of two or more Lots has voluntarily imposed on said Lots in accordance with Section 3.10 hereof, to legally condition, restrict, and limit the use of said Lots as a covenant running with the land so that such property will be considered one Lot for purposes of the Assessment.

"Dwelling Unit" means a building, or a portion thereof, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only.

"EAU" or "Equivalent Assessment Unit" means the standard unit to be used in calculating the Assessments for the Project, as assigned for each Tax Parcel in accordance with Section 3.03 hereof.

"Final Assessment Resolution" means the resolution described in Section 56.43(F) of the Ordinance that imposes Assessments within the Assessment Area.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the City.

"Funding Agreement" means the agreement pursuant to which the City agrees to deliver the Obligations against payment therefor by the purchaser or underwriter of such Obligations.

"Government Property" means property owned by the United States of America or any agency thereof, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

"Initial Prepayment Amount" means the amount computed pursuant Section 3.04(A) hereof for each Tax Parcel located within the Assessment Area.

"Land Area" means the total land area of each Non-Residential Parcel expressed in square feet as reflected in the Brevard County Property Appraiser's ad valorem tax roll database.

"Lot" means any of the Platted Lots or Parcels of Record within the Assessment Area on which a Dwelling Unit has been or can be constructed or sited in accordance with applicable laws and regulations, after giving effect to any (1) recorded Unity of Title, or (2) further legal, subdivision of any of the numbered lots or parcels as described in any deed or other muniment of title recorded in the public records of the City as of the date of the Final Assessment Resolution.

"Modified Debt Service Amount" means the amount computed pursuant to Section 3.05(C) hereof.

"Non-Residential Parcel" means those Tax Parcels in the Assessment Area that are not Residential Parcels.

"Obligations" means Original Obligations or Refunding Obligations.

"Ordinance" means the Master Capital Project and Service Assessment Ordinance, adopted by the Council on May 4, 2017, as Ordinance No. 2017-35, and codified in Chapter 56 of the City of Palm Bay Code of Ordinances, as may be amended from time to time.

"Original Obligations" means Temporary Original Obligations and Permanent Original Obligations.

"Parcel of Record" means an unplatted parcel of record or a subdivided Platted Lot in existence on the effective date of this Resolution, on which one or more Dwelling Units has been or can be constructed or sited in accordance with the City's current land development regulations.

"Pass-Through Obligations" means internal loans between certain funds of the City used to initially finance Local Improvements and designated as such by the City, the repayment of which is secured, in whole or in part, by proceeds of the Assessments and which the City subsequently pledges the proceeds of the internal loans, in whole or in part, to a series of bonds or other evidence of indebtedness.

"Permanent Original Obligations" means notes, bonds or other evidence of indebtedness including, but not limited to, Pass-Through Obligations, secured by

proceeds of the Assessments that are issued to refinance any Temporary Original Obligations and finance any remaining Project Costs.

"Platted Lot" means a platted building lot within the Assessment Area as of the date of the Final Assessment Resolution on which one (1) Dwelling Unit has been or can be constructed or sited in accordance with applicable laws and regulations.

"Port Malabar Unit 31 Road Improvement Assessment Area" or **"Assessment Area"** means the properties that will be specially benefited by the Project, as more particularly described in Section 3.01 and Appendix C hereof.

"Prepayment Modification Factor" means the factor computed pursuant to Section 3.05(B) hereof.

"Proforma Obligations" means a proforma of the Permanent Original Obligations prepared by the City or its financial advisor utilizing the following assumptions: (A) the principal amount of the Permanent Original Obligations is sufficient to fund (1) the Project Cost of the Project, (2) payment of the estimated Transaction Cost for the Permanent Original Obligations, (3) amounts to be deposited in any reserve account established for the Permanent Original Obligations, and (4) any other amounts deemed necessary by the City or its financial advisor, related to the Project and Capital Facilities Charges; (B) the Permanent Original Obligations are payable in substantially equal annual payments over the Assessment Period from their date of issuance; and (C) the Permanent Original Obligations bear interest at rates that, in the reasonable judgment of the City or its financial advisor (taking into consideration possible interest rate fluctuations between the date on which such proforma is prepared and the estimated date for issuance of the

Permanent Original Obligations), may be available on the estimated issuance date for the Permanent Original Obligations.

"Project" or "Port Malabar Unit 31 Road Improvement Project" means a "Local Improvement" as defined in the Ordinance and hereby more specifically defined as the design, acquisition, construction, and installation of paving, repaving, superpaving, surfacing, and resurfacing of the local roadway network providing ingress and egress within the Assessment Area, including related stormwater improvements, and other related capital improvements and facilities to be undertaken by the City.

"Project Cost" means (A) the Capital Cost of the Project, (B) the Transaction Cost associated with the Obligations attributable to the Project, (C) interest accruing on such Obligations for such period of time as the City deems appropriate, (D) the debt service reserve fund or account, if any, established for the Obligations attributable to the Project, and (E) any other costs or expenses related thereto.

"Refunding Obligations" means a series of bonds or other evidence of indebtedness issued by the City to refund all or any portion of the Permanent Original Obligations or any indebtedness issued to refinance the Permanent Original Obligations; provided, however, Refunding Obligations shall not include Pass-Through Obligations.

"Residential Parcel" means those Tax Parcels within the Assessment Area on which a Dwelling Unit has been or can be constructed or sited.

"Separately Billed Property" means properties that were not included in the geographic area described in Resolution No. 2017-63 adopted by the City on December 21, 2017, but that will be specially benefitted by the Project, are included within the

Assessment Area, and upon which Assessments will be imposed and collected in accordance with Section 4.01 hereof.

"Statutory Discount Amount" means the amount computed for each Tax Parcel pursuant to Section 3.05(G) hereof.

"Tax Parcel" means a parcel of property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

"Tax Roll" means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"Temporary Original Obligations" means that portion of the loan or loans incurred by the City to (A) finance the Project Cost of the Project on an interim basis, and (B) finance the payment of any Transaction Cost for the issuance of the Temporary Original Obligations.

"Transaction Cost" means the costs, fees and expenses incurred by the City in connection with the issuance and sale of any series of Obligations, including but not limited to (A) rating agency and other financing fees; (B) the fees and disbursements of bond counsel and disclosure counsel, if any; (C) the underwriters' discount; (D) the fees and disbursements of the City's financial advisor; (E) the costs of preparing and printing the Obligations, the preliminary official statement, the final official statement, and all other documentation supporting issuance of the Obligations; (F) the fees payable in respect of any municipal bond insurance policy; (G) administrative, development, credit review, and all other fees associated with any pooled commercial paper or similar interim financing program; and (H) any other costs of a similar nature incurred in connection with issuance of such Obligations.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

"Vacant Property" means Residential Parcels within the Assessment Area that contain one or more Lots that are not improved by a Dwelling Unit that will be serviced by the Project and have not received a Certificate of Occupancy for any Dwelling Unit on said unimproved Lots as of the Effective Date of this Resolution.

SECTION 1.02. **INTERPRETATION.** Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

SECTION 1.03. **LEGISLATIVE FINDINGS.** It is hereby ascertained, determined and declared that the Assessments provide a special benefit to property and are fairly and reasonably apportioned among all benefitted properties based upon that certain report prepared by Stantec, Inc., entitled "Unit 31 Roads Assessment - Final Report," dated as of July, 2018 (the "Road Assessment Report"), which is hereby incorporated herein by reference, and the following legislative findings:

(A) Pursuant to Article VIII, section 2(b), Florida Constitution, sections 166.021 and 166.041, Florida Statutes, and the City of Palm Bay Home Rule Charter, the City has all powers of local self-government to perform municipal functions and render municipal

services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of ordinances.

(B) The Council has enacted the Ordinance to provide for the creation of assessment areas and authorize the imposition of Assessments to fund the construction of Local Improvements to serve the property located therein.

(C) The Port Malabar Unit 31 Road Improvement Project constitutes a Local Improvement as defined in the Ordinance, which permits the City to provide for the construction, reconstruction, repair, paving, repaving, surfacing, and widening of streets and boulevards. In order to provide reliable ingress and egress to properties within the Assessment Area, it is necessary for the City to construct the Project.

(D) The Council desires to create the Assessment Area for the purpose of constructing the Project to serve approximately 1,975 Tax Parcels within the boundaries of the Assessment Area.

(E) The construction of the Project will provide a special benefit to the Tax Parcels located within the Assessment Area and will possess a logical relationship to the use and enjoyment of property by providing for: (1) adequate and reliable ingress and egress to all properties within the Assessment Area, which improves the utilization, marketability, and development potential of said properties; (2) the protection and/or enhancement of property and rental values; and (3) access to and delivery of essential services, including but not limited to fire rescue, emergency medical services, solid waste collection, law enforcement, postal delivery, and transportation of students by the Brevard County School District.

(F) As further described in the Road Assessment Report, the rate of Assessment for the Project Cost of the Project for all Tax Parcels within the City shall be expressed in terms of "Equivalent Assessment Units" or "EAUs," which is a fair and reasonable method of apportionment because EAUS, as expressed based upon the number of Lots or Land Area pursuant to Section 3.01 hereof, are a reasonable proxy for the amount of special benefit provided to the assessed properties by the Project.

(G) The Assessment Area consists primarily of Residential Parcels. Furthermore, the majority of Tax Parcels within the Assessment Area are Platted Lots, on which only one Dwelling Unit may be sited, pursuant to the City's current land development regulations. Given that all such Dwelling Units produce about the same number of vehicular trips on an average, annual basis, they should benefit similarly from the improved ingress and egress as a result of the Project. Accordingly, it is fair and reasonable to assign all such Platted Lots one (1.0) EAU regardless of minor variations in Platted Lot size.

(H) Some Tax Parcels within the Assessment Area contain Parcels of Record or multiple Platted Lots such that more than one Dwelling Unit may permissibly be sited thereon pursuant to the City's current land development regulations. In order to properly apportion the Project Costs to such Tax Parcels, it is fair and reasonable to assign EAUs to such Tax Parcels based on the maximum number of Lots that may be sited thereon based on the City's current land development regulations, as this represents the highest and best use of such properties. Additionally, property owners of two or more Lots will have the option to execute a Declaration of Unity of Title whereby such property will be considered one Lot for purposes of the Assessment and assigned one (1) EAU.

(I) A Non-Residential Parcel's utilization of the roads within the Assessment Area when developed to its highest and best use can reasonably be expected to correlate with the property's Land Area and its allowable use and density, as determined by the City's current land development regulations. Similarly zoned, larger Non-Residential Parcels have the potential for greater development density, which is reasonably likely to result in greater vehicular trips that must be accommodated by the Project. Furthermore, the City's current land development regulations are such that the minimum size of a developable Non-Residential Parcel within the Assessment Area is substantially similar to the size of a Lot attributable to a Residential Parcel. Therefore, it is fair and reasonable to assign each Non-Residential Parcel EAUs based on its Land Area and its allowable use.

(J) It is fair and reasonable to treat Vacant Property in the same manner as similarly situated improved Residential Parcels and Non-Residential Parcels, as applicable, because such treatment accounts for highest and best use of such Vacant Property and acknowledges the increased marketability and development potential of Vacant Property resulting from the Project.

(K) In order to reduce the financial impact the Assessment will have on the real property owners in the proposed Assessment Area, the City has decided to obtain financing on behalf of the real property owners for their share of the Project Cost. The financing is expected to have a maturity of fifteen (15) years or less.

(L) The Council hereby finds and determines that the Assessments associated with the Project to be imposed in accordance with this Resolution provide an equitable method of funding construction of the Project by fairly and reasonably allocating the cost

to specially benefitted property, based upon the number of EAUs attributable to each Tax Parcel, in the manner hereinafter described.

**ARTICLE II
NOTICE AND PUBLIC HEARING**

SECTION 2.01. ESTIMATED CAPITAL COST AND PROJECT COST.

The estimated Capital Cost of the Project is \$8,155,295. The estimated Project Cost for the Project is \$9,130,681. The Project Cost will be funded through the imposition of Assessments against property located within the City in the manner set forth in Article III hereof.

SECTION 2.02. ASSESSMENT ROLL.

(A) The City Manager is hereby directed to prepare a final estimate of the Capital Cost and Project Cost of the Project and to prepare the preliminary Assessment Roll in the manner provided in the Ordinance.

(B) The City Manager shall apportion the Capital Cost and Project Cost among the parcels of real property within the City in conformity with Article III hereof.

(C) The estimate of Capital Cost, Project Cost, and the Assessment Roll shall be maintained on file in the Office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each Tax Parcel can be determined by use of a computer terminal available to the public.

SECTION 2.03. PUBLIC HEARING. A public hearing will be conducted by the Council on September 6, 2018, in the City Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, at 7:00 p.m., or as soon thereafter as the item can be heard, to consider (A) creation of the Assessment Area, (B) imposition of the Assessments, and (C) collection of the Assessments pursuant to the Uniform Assessment Collection Act.

SECTION 2.04. **NOTICE BY PUBLICATION.** Upon completion of the materials required by Section 2.02 hereof, the City Manager shall publish a notice of the public hearing authorized by Section 2.03 hereof in the manner and the time provided in Section 56.43(D) of the Ordinance. Such notice shall be in substantially the form attached hereto as Appendix A.

SECTION 2.05. **NOTICE BY MAIL.**

(A) Upon completion of the materials required by Section 2.02 hereof, the City Manager shall, at the time and in the manner specified in Section 56.43(E) of the Ordinance, provide first class mailed notice of the public hearing authorized by Section 2.03 hereof to each property owner proposed to be assessed at the address indicated on the Tax Roll. Such notice shall be in substantially the form attached hereto as Appendix B.

(B) The notice by mail shall inform each property owner of their ability to file a Declaration of Unity of Title for purposes of the Assessments. All Declarations of Unity of Titles must be filed on or before October 15, 2018 on a form approved by the City.

ARTICLE III ASSESSMENTS

SECTION 3.01. DESCRIPTION OF ASSESSMENT AREA.

(A) The Assessment Area shall include the property shown in Appendix C attached hereto and incorporated herein by reference.

(B) The Assessment Area is proposed for the purpose of improving the use and enjoyment of all properties located therein by constructing the Project to provide adequate ingress and egress to all such properties.

SECTION 3.02. IMPOSITION OF ASSESSMENTS.

(A) Assessments shall be imposed against property located within the Assessment Area for a period of fifteen (15) years, the amount of which shall be computed in accordance with this Article III. The first annual Assessment will be included on the ad valorem tax bill mailed in November 2018.

(B) In accordance with Section 56.20(D) of the Ordinance, when imposed, the Assessment for each Fiscal Year shall constitute a lien upon the Tax Parcels located within the Assessment Area, which lien shall be equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid.

SECTION 3.03. ASSESSMENT UNITS.

(A) To reflect the relative amount of special benefit to be derived from construction of the Project, the number of EAUs attributable to each Tax Parcel shall be determined in the manner set forth in this Section 3.03(A).

(1) Residential Parcels shall be assigned one (1.0) EAU for each Lot assigned to the Tax Parcel.

(2) Non-Residential Parcels shall be assigned one (1.0) EAU for each 10,000 square feet of Land Area (rounded down to the nearest multiple of 10,000) assigned to the Tax Parcel.

SECTION 3.04. PREPAYMENT AMOUNTS.

(A) Upon adoption of the Final Assessment Resolution, an Initial Prepayment Amount for each Tax Parcel located within the Assessment Area shall be calculated as the sum of (1) the amount computed by (a) dividing the number of EAUs attributable to such Tax Parcel by the total number of EAUs attributable to all Tax Parcels within the Assessment Area, and (b) multiplying the result by the estimated Capital Cost of the Project.

(B) Following the issuance of any Temporary Original Obligations, an Adjusted Prepayment Amount for each Tax Parcel shall be computed by multiplying (1) the amount computed by dividing (a) the Initial Prepayment Amount established herein for such Tax Parcel by (b) the sum of (i) the aggregate Initial Prepayment Amounts for all Tax Parcels within the Assessment Area, and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other Local Improvements funded from proceeds of the Temporary Original Obligations by (2) the principal amount of the Proforma Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(l) hereof.

(C) Following issuance of the Permanent Original Obligations, an Adjusted Prepayment Amount for each Tax Parcel shall be computed by multiplying (1) the amount computed by dividing (a) the Adjusted Prepayment Amount established herein for such Tax Parcel by (b) the sum of (i) the aggregate Adjusted Prepayment Amounts for all Tax Parcels within the Assessment Area and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other Local Improvements funded from proceeds of the Permanent Original Obligations by (2) the principal amount of the Permanent Original Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(I) hereof.

(D) Following issuance of any Refunding Obligations, a new Adjusted Prepayment Amount for each Tax Parcel shall be computed by multiplying (1) the amount computed by dividing (a) the Adjusted Prepayment Amount for such Tax Parcel by (b) the sum of (i) the aggregate Adjusted Prepayment Amounts for all Tax Parcels within the Assessment Area and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other Local Improvements funded from proceeds of the Obligations being refunded by (2) the principal amount of such Refunding Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(I) hereof.

SECTION 3.05. **COMPUTATION OF ASSESSMENTS.** Assessments will be imposed for each Fiscal Year in which Obligations remain outstanding and collected on the ad valorem tax bill in the manner authorized by the Uniform Assessment Collection

Act. The annual Assessment shall be computed for each Tax Parcel in the manner set forth in this Section 3.05.

(A) DEBT SERVICE AMOUNT. A "Debt Service Amount" shall be computed for each Fiscal Year in the following manner:

(1) For each Fiscal Year in which Temporary Original Obligations will be outstanding, the "Debt Service Amount" shall be computed as the amount which would be payable in respect of the Proforma Obligations in accordance with a debt service schedule prepared with principal installments equal those established for the Proforma Obligations.

(2) Following issuance of the Permanent Original Obligations, the "Debt Service Amount" shall be computed for each Fiscal Year as the amount which would be payable in respect of the Permanent Obligations in accordance with a debt service schedule prepared with principal installments equal those established in the Funding Agreement; provided however, that the "Debt Service Amount" for any Fiscal Year shall not exceed the principal amount of Permanent Obligations then outstanding plus interest thereon.

(B) PREPAYMENT MODIFICATION FACTOR. A "Prepayment Modification Factor" shall be computed for each Fiscal Year by dividing (1) the amount computed by subtracting (a) the sum of the Adjusted Prepayment Amounts, as of the date on which the Obligations are issued by the City, for all Tax Parcels as to which prepayment has been made following issuance of the Obligations, from (b) the total principal amount of Obligations initially issued by the City, by (2) the total principal amount of Obligations initially issued by the City.

(C) MODIFIED DEBT SERVICE AMOUNT. A "Modified Debt Service Amount" shall be computed for each Fiscal Year by multiplying (1) the Debt Service Amount by (2) the Prepayment Modification Factor.

(D) ANNUAL DEBT SERVICE FACTOR. An "Annual Debt Service Factor" shall be computed for each Fiscal Year by dividing (1) the Adjusted Prepayment Amount for such Tax Parcel, by (2) the aggregate Adjusted Prepayment Amount.

(E) ANNUAL DEBT SERVICE COMPONENT. The "Annual Debt Service Component" shall be computed for each Fiscal Year for each Tax Parcel by multiplying (1) the Modified Debt Service Amount, by (2) the Annual Debt Service Factor.

(F) COLLECTION COST COMPONENT. The "Collection Cost Component" shall be computed each Fiscal Year for each Tax Parcel by (1) dividing (a) the Adjusted Prepayment Amount for such Tax Parcel by (b) the sum of the aggregate Adjusted Prepayment Amount remaining in the Assessment Area, and (2) multiplying the result by the Collection Cost.

(G) STATUTORY DISCOUNT AMOUNT. The "Statutory Discount Amount" shall be computed for each Tax Parcel as the amount of the maximum discount for early payment of ad valorem taxes and non ad valorem assessments plus a reasonable contingency for uncollectible amounts, such amount to be calculated by deducting (1) the sum of (a) the Annual Debt Service Component and (b) the Collection Cost Component, from (2) the amount computed by dividing (a) the sum of (i) the Annual Debt Service Component and (ii) the Collection Cost Component, by (b) 0.96.

(H) ASSESSMENT. The annual Assessment for each Tax Parcel shall be computed as the sum of (1) the Annual Debt Service Component, (2) the Collection Cost Component, and (3) the Statutory Discount Amount.

(I) REVISION OF ADJUSTED PREPAYMENT AMOUNT. Upon certification of the Assessment Roll each Fiscal Year, the Adjusted Prepayment Amount for each Tax Parcel shall be recomputed by deducting (1) the amount computed by (a) dividing (i) the principal component of the Debt Service Amount utilized to compute the Annual Debt Service Component for the Assessment Roll by (ii) the total Debt Service Amount utilized to compute the Annual Debt Service Component for the Assessment Roll and (b) multiplying the result by the Annual Debt Service Component included on the Assessment Roll for the Tax Parcel, from (2) the Adjusted Prepayment Amount (or for the initial Assessment Roll, the Initial Prepayment Amount) utilized to compute the annual Assessment included on the Assessment Roll for such Tax Parcel.

SECTION 3.06. PREPAYMENT OPTION.

(A) Initial Prepayment Option: Following adoption of the Final Assessment Resolution, the City Manager shall provide first class mailed notice to the owner of each Tax Parcel subject to the Assessment of the owner's option to prepay all future annual Assessments. On or prior to the date specified in such notice, the owner of each Tax Parcel subject to the Assessment shall be entitled to prepay all future annual Assessments, upon payment of the Initial Prepayment Amount; provided, however, that due to the prepayment period extending beyond the deadline for certification of the Assessment Roll for the Fiscal Year beginning on October 1, 2018, the annual

Assessment amount computed for each Tax Parcel in accordance with Section 3.05 will be billed on the Tax Bill and payable pursuant to the Uniform Assessment Collection Act.

(B) Additional Prepayment Option: Following the date specified in the notice provided pursuant to Section 3.06(A) hereof, or such later date as the Council may allow in its sole discretion, the owner of each Tax Parcel subject to the Assessments may be entitled to prepay all future unpaid annual Assessments upon payment of an amount equal to the sum of (1) the Adjusted Prepayment Amount for such Tax Parcel, and (2) interest on the Adjusted Prepayment Amount from the most recent date to which interest on the Obligations has been paid to the next date following such prepayment on which the City can redeem Obligations after providing all notices required to redeem all or any portion of the Obligations. During any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the future unpaid annual Assessments for the Tax Parcel by the amount of the Assessment that has been certified for collection with respect to such Tax Parcel.

(C) The amount of all prepayments made pursuant to this Section 3.06 shall be final. The City shall not be required to refund any portion of a prepayment if (1) the Capital Cost or Project Cost of the Project is less than the amount upon which such Initial Prepayment Amount or Adjusted Prepayment Amount was computed, (2) the Initial Prepayment Amount or Adjusted Prepayment Amount is reduced upon issuance of the Permanent Original Obligations, or (3) the annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

SECTION 3.07. MANDATORY PREPAYMENT.

(A) The owner of a Tax Parcel subject to the Assessment shall immediately prepay all future unpaid annual Assessments for such Tax Parcel if (1) the Tax Parcel is to be acquired or otherwise transferred to an entity for which Assessments cannot be collected pursuant to the Uniform Assessment Collection Act through condemnation, negotiated sale or otherwise, (2) the Tax Parcel is subject to annexation by a governmental unit, or (3) a tax certificate has been issued and remains outstanding in respect of the Tax Parcel and the City, at its sole option, elects to accelerate the Assessment. In the case of (1) or (2) above, the owner of the Tax Parcel prior to condemnation, sale or other transfer must notify the City at least 30 days prior to the proposed acquisition or transfer date in order to allow the City sufficient time to determine the final amount due. Failure to provide such notice shall cause an automatic acceleration of such Assessment the effective date of which is 10 days prior to the proposed acquisition or transfer date.

(B) The amount required to prepay the future unpaid annual Assessments will be equal to the sum of (1) the Adjusted Prepayment Amount for such Tax Parcel, and (2) interest on the Adjusted Prepayment Amount, computed at a rate one full percentage point in excess of the rate on the Obligations, from the most recent date to which interest on the Obligations has been paid to the next date following such prepayment on which the City can redeem Obligations after providing all notices required to redeem all or any portion of the Obligations.

(C) During any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on

the next date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the future unpaid annual Assessments for the Tax Parcel by the amount of the Assessment that has been certified for collection with respect to such Tax Parcel.

(D) The amount of all prepayments made pursuant to this Section 3.07 shall be final. The City shall not be required to refund any portion of a prepayment if (1) the Capital Cost or Project Cost of the Project is less than the amount upon which such Adjusted Prepayment Amount was computed, (2) the Adjusted Prepayment Amount is reduced upon issuance of the Permanent Original Obligations, or (3) the annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

(E) Collection by the City of mandatory prepayments pursuant to this Section 3.07 is supplemental and in addition to any other legally available remedy the City may seek for repayment of the Assessments.

SECTION 3.08. **REALLOCATION UPON FUTURE SUBDIVISION.** If a Tax Parcel is subsequently divided into more than one Tax Parcel, the Assessment imposed against such Tax Parcel may be reallocated among subsequently created Tax Parcels upon (1) application of the owner and (2) assignment of a distinct ad valorem property tax identification number to each Tax Parcel by the Property Appraiser. However, no portion of the Assessment may be allocated to property proposed for dedication to the public or to common use of subdivided parcels.

SECTION 3.09. **VACANT PROPERTY OPTION.**

(A) Optional Declaration of Unity of Title. Any person owning a Residential Parcel containing Vacant Property consisting of two or more Lots may elect to execute

and file with the City a Declaration of Unity of Title so that such property will be considered one Lot for purposes of the Assessment.

(B) Effect. Execution and recording of a Declaration of Unity of Title by a property owner allows that owner's property to be considered as one unified Lot for purposes of the Assessment and restricts the property owner's ability to sell or transfer less than the entire parcel to another person or entity without obtaining a release of the Declaration of Unity of Title. The subject property may include two (2) or more contiguous Platted Lots or it may be one Parcel of Record that the owner does not intend to fully or further develop. For purposes of this Section, "contiguous" means a Lot that is directly adjacent to and shares a boundary with another Lot. Lots separated by a roadway or platted right-of-way are not considered to be "contiguous." A person owning a Residential Parcel consisting of more than two (2) Lots may elect to file a Declaration of Unity of Title on some or all of such Lots.

(C) Approval Procedure. Declarations of Unity of Title shall be submitted on forms provided by the City. All Declarations of Unity of Title must be filed with the City on or before October 15, 2018. The City shall evaluate the Declaration of Unity of Title for completeness and ensure that the property is eligible pursuant to the standards established herein. After approval by the City, the property owner will be responsible for recording the Declaration of Unity of Title in the Public Records of Brevard County at the property owner's expense.

(D) Release of Declaration of Unity of Title. The City Manager, or his/her designee, may, in their sole discretion, release a property encumbered by a Declaration of Unity of Title. If released, the property owner shall pay all unpaid Assessments for the

Project (based upon the number of EAUs assigned to the Residential Parcel prior to filing of the Declaration of Unity of Title), plus reasonable fees and costs incurred by the City. When a release of a Declaration of Unity of Title is approved, the property owner will be provided with a release executed by the City Manager or his/her designee and the property owner will be responsible for recording the Release in the Public Records of Brevard County prior to conveying any portion of the unified parcel.

**ARTICLE IV
GENERAL PROVISIONS**

SECTION 4.01. METHOD OF COLLECTION. The Assessments shall be collected pursuant to the Uniform Assessment Collection Act; provided however, that any Assessment against Government Property or against Separately Billed Property shall be collected pursuant to Section 56.44(B) of the Ordinance.

SECTION 4.02. SEVERABILITY. If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 4.03. INTENT FOR REIMBURSEMENT FROM BOND PROCEEDS. The City is hereby authorized to temporarily advance funds from available utility revenue funds for the payment of the Capital Cost of the Project, such advances to be reimbursed from proceeds of tax-exempt Obligations. This is a Declaration of Official Intent under U.S. Treasury Regulations for purposes of Sections 103 and 141 to 150 of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"). The City declares that it reasonably expects that the Capital Cost for the Project will be reimbursed with the proceeds of bonds (as defined in Section 150 of the Internal Revenue Code). The maximum principal amount of bonds expected to be issued for the Capital Cost of the Project is \$9,130,681.

SECTION 4.04. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

This resolution was duly enacted at Meeting No. 2018-_____, of the City Council of the City of Palm Bay, Brevard County, Florida, held on _____, 2018.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

APPROVED FOR FORM AND
CORRECTNESS:

Patricia D. Smith, CITY ATTORNEY

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

To Be Published on or before August 16, 2018

NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SPECIAL ASSESSMENTS

[INSERT MAP OF ASSESSMENT AREA]

Notice is hereby given that the City Council of the City of Palm Bay, Florida, will conduct a public hearing to consider creation of the Port Malabar Unit 31 Road Improvement Project Municipal Service Benefit Unit ("Assessment Area"), as shown above, and to impose special assessments against certain parcels of property located therein for the fiscal year beginning on October 1, 2018 and future fiscal years to fund the design, acquisition, installation, and construction of the Port Malabar Unit 31 Road Improvement Project. The hearing will be held on September 6, 2018 in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, at 7:00 p.m., or as soon thereafter as the item can be heard, for the purpose of receiving public comment on the proposed Assessment Area, the assessments, and their collection on the ad valorem tax bill.

The Assessments have been proposed to fund the Port Malabar Unit 31 Road Improvement Project that will provide for adequate and reliable ingress and egress to properties located within the proposed Assessment Area. The Project will consist of comprehensive road paving, surfacing, resurfacing and other related facilities and improvements, including related stormwater improvements. The assessment for each parcel of property will be based upon the number of equivalent assessment units (EAUs) attributable to such parcel based on the property's use and the number of buildable lots for residential property and the amount of land area for non-residential property. A more specific description is set forth in the Initial Assessment Resolution adopted by the City Council on August 2, 2018. Copies of the Initial Assessment Resolution and the preliminary assessment roll are available for inspection at the City Clerk's Office, City Council of Palm Bay, 120 Malabar Road SE, Palm Bay, Florida 32907. Copies of the plans and specifications for the Port Malabar Unit 31 Road Improvement Project are available for inspection at the Utilities Department, 120 Malabar Road SE, Palm Bay, Florida.

The proposed maximum annual assessment is \$434 per EAU. The assessments for most properties will be collected on the ad valorem tax bill, as authorized by Section 197.3632, Florida Statutes. However, the assessments for Government Property and for Separately Billed Properties, as defined in the Initial Assessment Resolution, will be collected by separate bill for the initial fiscal year. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. The City Council intends to collect the assessments in fifteen (15) annual assessments,

the first of which will be included on the ad valorem tax bill to be mailed in November 2018.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk at (321) 952-3414 at least 48 hours prior to the date of the hearing. If hearing impaired, telephone the Florida Relay Service Numbers, 711, for assistance.

All affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If a person wishes to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

If you have any questions, please contact the City's Utilities Department at (941)_____.

CITY OF PALM BAY, FLORIDA

APPENDIX B

FORM OF NOTICE TO BE MAILED

City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907
[, Director]
Phone:

[Property Owner Name]
[Street Address]
[City, State and zip]

PALM BAY, FLORIDA

NOTICE OF PUBLIC HEARING FOR
PORT MALABAR UNIT 31 ROAD
IMPROVEMENT ASSESSMENTS

NOTICE DATE: AUGUST 16, 2018

*****NOTICE TO PROPERTY OWNER*****

Re: Parcel ID Number [Insert Number]
Port Malabar Unit 31 Road Improvement Project

Dear Property Owner:

An assessment area is being created by the City of Palm Bay to fund road improvements within Port Malabar Unit 31 in order to provide adequate ingress and egress to properties located therein. The cost of these improvements will be funded by assessments against the property to be served. The road improvement project will consist of comprehensive road paving, surfacing, resurfacing and other related facilities and improvements, including related stormwater improvements. The assessment for each parcel of property will be based upon the number of equivalent assessment units (EAUs) attributable to such parcel based on the property's use and the number of buildable lots for residential property and the amount of land area for non-residential property.

A more specific description of the assessment program is set forth in the Initial Assessment Resolution adopted by the City Council on August 2, 2018. Copies of the Initial Assessment Resolution, the plans and specifications for the road improvements, and the preliminary assessment roll are available for your review at the City Clerk's Office, City Council of Palm Bay, 120 Malabar Road SE, Palm Bay, Florida 32907. Information regarding the assessment for your specific property, including the number of EAUs, is attached to this letter.

Property owners who have two or more contiguous platted lots or unplatted parcels assigned two or more buildable lots may execute a Declaration of Unity of Title, that allows a property owner's real property to be considered as one unified lot or parcel for the purpose of the assessment program. After filing a valid Unity of Title, you would pay the reduced EAU allocation; however, the execution of the Unity of Title will restrict your ability to develop or transfer less than the entire parcel to another person or entity without

obtaining a release of the Declaration of Unity of Title from the City, but there is no obligation for the City to grant this release nor any guarantee that your request will be granted. If your property is eligible for the Unity of Title, please contact the City _____ at _____ to obtain information on filing a Declaration of Unity of Title. Execution of the Unity of Title will be due to the City by October 15, 2018 to be effective. Property owners should consult with an attorney prior to executing a Declaration of Unity of Title.

The City intends to finance this assessment project; this will permit the cost attributable to your property to be amortized over a period of fifteen (15) years. The annual assessment will include your share of the principal, interest and collection and administrative costs. The maximum annual assessment is estimated to be \$434 per EAU. The City intends to include annual assessments on your ad valorem tax bill the first of which will be included on the ad valorem tax bill to be mailed in November 2018. However, you may choose to prepay your assessment in full and avoid payment on the ad valorem tax bill. Please do not send payment now. If the assessments are imposed, you will receive a separate notice of the amount, due date and place for payment.

Failure to pay your assessments appearing on the ad valorem tax bill will cause a tax certificate to be issued against the property which may result in a loss of title. The City intends to collect up to \$12,974,430 in assessment revenues depending on participating tax parcels, over the next fifteen (15) years for this project.

The City Council will hold a public hearing at 7:00 p.m., or as soon thereafter as the matter can be heard, on September 6, 2018 in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of receiving comments on the proposed assessments, including collection on the ad valorem tax bill. You are invited to attend and participate in the public hearing or to file written objections with the City Council prior to or during the hearing. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the City Clerk at (321) 952-3414 at least 48 hours prior to the date of the hearing. If hearing impaired, telephone the Florida Relay Service Numbers, 711, for assistance.

If there is a mistake on this notice it will be corrected. If you have any questions regarding the number of EAUs assigned to your property or the amount of the assessment, please contact the _____ by telephone at _____, or by email at _____.

* * * * * **SEND NO MONEY NOW. THIS IS NOT AN INVOICE** * * * * *

PORT MALABAR UNIT 31 ROAD IMPROVEMENT ASSESSMENT AREA

[Property Owner Name]

Parcel ID Number [Insert Number]

ASSIGNED ASSESSMENT UNITS

Property Use:

[Residential or Non]

Total Lots assigned to the property:

[number or NA if Non]

Total Land Area assigned to the property:

[number or NA if Res]

Total number of EAUs attributed to property:

[Insert Number]

PREPAYMENT AND ANNUAL ASSESSMENTS

Initial prepayment amount (excludes
permanent financing cost):

[Insert Amount]

Number of annual payments:

not to exceed 15

Maximum annual assessment:

[Insert Amount]

Expected date of first bill:

November 2018

Expected date of last bill:

November 2032

* * * * * **SEND NO MONEY NOW. THIS IS NOT AN INVOICE** * * * * *


APPENDIX C

DESCRIPTION OF THE UNIT 31 ROAD IMPROVEMENT PROJECT ASSESSMENT AREA



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: August 2, 2018

RE: Unit 32 Roads Initial Assessment Resolution

The Public Works Department is requesting the adoption of the Unit 32 Initial Assessment Resolution. The revenue derived from the assessment will be used to reconstruct roads in Unit 32 and some benefitting parcels outside of, but adjacent to Unit 32. The assessment insures an equitable and efficient method of allocating and apportioning road construction costs among benefited properties.

REQUESTING DEPARTMENTS:

Public Works Department, City Attorney's Office, City Manager's Office

FISCAL IMPACT:

The Brevard County Tax Collection office can place up to a 2% fee for processing our Stormwater Utility service fees.

RECOMMENDATION:

Motion to approve the Unit 32 Roads Initial Assessment Resolution.

Attachments: 1) Stantec Final Report
2) Copy of Initial Assessment Resolution

JM/GS/ab



City of Palm Bay, FL

Unit 32 Roads Assessment – 3rd Revised Final Report

July 27, 2018





July 27, 2018

Mr. Gregory Stone, PMP
City of Palm Bay
Special Projects Division
Manager
120 Malabar Road
Palm Bay, FL 32907

Re: Unit 32 Roads Assessment
– Final Report

Dear Mr. Stone

Stantec is pleased to present this Final Report of the Unit 32 Roads Assessment that we have performed for the City of Palm Bay (The City).

We appreciate the fine assistance provided by you and all of the members of City staff who participated in the analysis.

If you or others at the City have any questions, please do not hesitate to call me at (904) 923-1466 or email me at michael.burton@stantec.com. We appreciate the opportunity to be of service to the City and look forward to working with you again in the near future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Burton".

Michael Burton
Vice President

200 Business Park Circle, Suite 101
St. Augustine, FL 32095
michael.burton@stantec.com

Enclosure

TABLE OF CONTENTS

| | |
|---|-----------|
| 1. Introduction..... | 2 |
| 1.1 Study Objective & Procedure..... | 2 |
| 2. Project Description..... | 3 |
| 2.1 Assessment Area..... | 3 |
| 2.2 Project Costs of Proposed Improvements | 3 |
| 3. Special Assessment Methodology..... | 5 |
| 3.1 Florida Law Governing Special Assessments | 5 |
| 4. Assessment Calculation | 10 |
| 4.1 Net Revenue Requirement | 10 |
| 4.2 Property Data and Assessment Units..... | 11 |
| 4.3 Assessment Rate Calculation | 12 |

1. INTRODUCTION

Stantec Consulting Services Inc. has conducted a Non-Ad Valorem Assessment Study (Study) to develop a Non-Ad Valorem Assessment for the City of Palm Bay (the City) to fund capital improvements to local roads (Road Assessment Program) within Port Malabar Unit 32 (Unit 32) and several connecting roads bordering Unit 32 (Assessment Area) within the City. This report presents the objectives, approach, methodologies, source data, assumptions, as well as the findings and recommendations of the Study.

Pursuant to Section 6.02 of the City Charter, the City has the authority to impose special assessments for the construction, reconstruction, repair and related maintenance of all roads and streets. As such, the City desires to create a Road Assessment Program that would recover the full capital costs to provide paved and improved roads to Unit 32. The methodology utilized within this study relies upon current property and cost data to create a fair and equitable assessment.

1.1 STUDY OBJECTIVE & PROCEDURE

The objective of this Study is to develop a non-ad valorem assessment program that will recover the full capital cost requirements of providing improved roads to properties within the Assessment Area. The costs associated with these improvements must be recovered in proportion to the benefit received from these services provided by the City.

The Study first identifies the recommended improvements as provided by the City and their associated cost requirements, recognizing the high level of service traditionally provided by the City.

The revenue requirement was then apportioned to vacant and improved residential and non-residential property classes based upon property data obtained from the Brevard County Property Appraiser's Office (Property Appraiser) and Graphical Information System (GIS) data provided by the City. Once the allocations were complete, Assessment rates were developed, the results of which are presented herein.

2. PROJECT DESCRIPTION

2.1 ASSESSMENT AREA

The Assessment Area consists of 1,876 parcels within Unit 32 and 25 parcels outside of the boundary of Unit 32 fronting the north side of Gates Rd. between Happiness Avenue and LaBelle Avenue, on Almeria Lane, and along the western border of Unit 32 along Garvey Road as recorded by the Property Appraiser and reviewed by the City. Appendix A provides a map of the Assessment Area indicating the location of the project and proposed road improvements.

2.2 PROJECT COSTS OF PROPOSED IMPROVEMENTS

The City has identified the probable costs for the paving and improvement of the road network throughout the Assessment Area. The City has identified two level of service standards for these improvements as follows:

Option 1: DCS (Double-Chip and Seal)

Under this improvement option, the City will complete a full depth reclamation (FDR) process to stabilize the base then place a double chip and seal (DCS) driving surface. Roads which currently have a Pavement Condition Index (PCI) greater than 80 will be milled and resurfaced with Superpave. 78,655 linear feet (lf)/14.9 miles will get FDR/DCS treatment while 32,326 lf/6.1 miles will be milled and resurfaced with Superpave for a total of 110,981 lf/21.0 miles of road to be resurfaced. All drainage repairs and improvements will be funded from the storm water utility and therefore not included in the assessment calculation.

Option 2: Superpave

This option includes a FDR process to stabilize the base then pave the driving surface with Superpave. Roads which currently have a PCI greater than 80 will be milled and resurfaced with Superpave. 78,655 linear feet (lf)/14.9 miles will get FDR/Superpave treatment while 32,326 lf/6.1 miles will be milled and resurfaced with Superpave for a total of 110,981 lf/21.0 miles of road to be resurfaced. All drainage repairs and improvements will be funded from the storm water utility and therefore not included in the assessment calculation.

Probable costs for these improvements are shown in Table 1. The City's proposed financing plan for the project consists of the issuance of a debt instrument to be issued and repaid through this Assessment.

Table 1 – Unit 32 Roads Assessment Probable Costs

| Description | Option 1: DCS | Option 2: Superpave |
|--------------------------|--------------------|---------------------|
| Cost | \$4,026,655 | \$5,513,435 |
| Overhead Costs | \$1,207,997 | \$1,654,031 |
| Total¹ | \$5,234,652 | \$7,167,466 |

¹ Includes Engineering and CEI costs.

3. SPECIAL ASSESSMENT METHODOLOGY

The development of a non-ad valorem assessment to fund roads improvements requires that the improvements for which properties are to be assessed confer a special benefit upon the property burdened by the special assessment. Simply stated, there must be a logical relationship between the services and facilities provided and the benefit to real property assessed.

In addition to the special benefit requirement, the costs associated with providing the services and facilities must be reasonably apportioned to the properties that receive a benefit from the improvements in proportion to the benefit received. Therefore, the recommended assessments calculated in this study were developed such that the costs incurred by the City in improving these roads will be recovered through assessments to properties in proportion to the benefit received by the availability of the improved roads to all properties within the Assessment Area.

This section describes the assessment methodology used to develop the Roads Assessment. The first sub-section discusses relevant Florida Law regarding special non-ad valorem assessments, followed by sections discussing how Florida Law has been applied to the determination of special benefit and the apportionment of revenue requirements of the assessment to benefitting properties.

3.1 FLORIDA LAW GOVERNING SPECIAL ASSESSMENTS

This section discusses relevant Florida Law regarding special non-ad valorem assessments as it relates to the proposed Roads Assessment. The discussion covers how Florida law relates to special benefit.

Special assessments are a revenue source available to local governments in Florida to fund operations and maintenance expenses and capital improvements for essential services such as roads, drainage, fire protection services, utilities, etc.

Pursuant to Florida case law, two requirements must be satisfied for the imposition of a valid non-ad valorem special assessment. These two requirements have become known as the two-pronged test. They are 1) the property assessed must derive a special benefit from the services or assets provided, and 2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.

In considering special benefit, the following question must be considered: “Can a special benefit be derived from the improvements by all properties within the Assessment Area to meet the first prong of the two-pronged test, even if all properties are not yet improved?”. The answer is yes, based in part upon the Florida Supreme Court determination in Meyer v. City of Oakland Park where the Court upheld a sewer assessment on both improved and unimproved property, stating that the benefit need

not be direct or immediate but must be substantial, certain and capable of being realized within a reasonable time². Road improvements were determined to provide special benefit per Atlantic Coast Line R. Co. v. City of Gainesville³ and Bodner v. City of Coral Gables⁴. In City of Hallandale v. Meekins⁵ the Court indicated that the proper measure of benefits accruing to property from the assessed improvement was not limited to the existing use of the property but extended to any future use which could reasonably be made.

It is well settled under Florida law that local governments are afforded great latitude regarding legislative determinations of special benefit and reasonable apportionment of costs. Specifically, the Florida Supreme Court has held that in cases where valid alternative methods of apportionment exist, the legislative body's determination should be upheld, unless that determination was arbitrary, and a court should not substitute its judgment for that of the local legislative body. In City of Boca Raton v. State of Florida⁶ the Florida Supreme Court stated that the apportionment of benefits is a legislative function, and if reasonable persons may differ as to whether the land assessed was benefitted by the local improvement, the findings of the City officials must be sustained. Further, in City of Boca Raton v. State of Florida the Florida Supreme Court also determined that the manner of the assessment is immaterial and may vary within the City, as long as the amount of the assessment for each tract is not in excess of the proportional benefits as compared to other assessments on other tracts. A local government can assign to each property, which is subject to the assessment, a different category designation with each category having a different assessment rate.⁷

Special Benefit – The First Prong of the Two-Pronged Test

All tax parcels, developed and undeveloped, are benefitted by the mere availability of a paved and improved roads network infrastructure. Such benefit is independent of whether the property is developed or not. The benefits include:

- Increasing, establishing, and preserving adequate ingress and egress to all properties within the assessment area.
- Enhanced property and rental value, marketability of and/or ability to develop property.

² Meyer v. City of Oakland Park, 219 So.2d 417 (Fla. 1969)

³ Atlantic Coast Line R. Co. v. City of Gainesville, 91 Sc.118 (Fla. 1922)

⁴ Bodner v. City of Coral Gables, 245 So.2d 250 (Fla. 1971)

⁵ City of Hallandale v. Meekins, 237 So.2d 318 (Fla. 4th DCA 1970), aff'd, 245 So.2d 253 (Fla 1971)

⁶ City of Boca Raton v. State of Florida, 595 So.2d 25 (1992)

⁷ Workman Enterprises, Inc. v. Hernando County, 790 So.2d 598 (Fla. 5th DCA 2001); Desiderio Corp. v. City of Boynton Beach, 39 So. 3d 487, 498 (Fla. 4th DCA 2010)

- Facilitating access to and delivery of essential services, including but not limited to: fire rescue, emergency medical services, solid waste collection, law enforcement, postal delivery, and transportation of students by the School Board.
- Increased use and enjoyment of the parcel derived from continuously and immediately available improved roads.
- Enhanced marketability and value of the parcel when compared to a similarly situated parcel for which roads are not improved to the same level of standard or are otherwise more difficult to access.

The mere availability of an improved road network benefits each parcel because each property owner will have more reliable access to their parcel whether already developed or currently undeveloped but with the potential to be developed in the future.

Therefore, the first prong of the two-pronged test (the property burdened by the assessment must derive a special benefit from the service provided by the assessment) is met because each parcel will receive a special benefit from the availability of improved roads provided by the City.

Fair and Reasonable Apportionment – The Second Prong of the Two-Pronged Test

In considering the assessment methodology, the second prong of the two-pronged test requires that the costs of the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit. In this Study we have developed an apportionment methodology based upon the availability of improved roads to all parcels abutting the roads or parcels that must use the roads for ingress or egress, improved and un-improved.

Apportionment of Benefits to Properties

Our analysis of the Assessment Area is based upon an Equivalent Assessment Unit (EAU) which was determined by an evaluation of the parcels within the Assessment Area and their current and potential property use based on the City's Land Development Code (LDC). Properties within the Assessment Area (which includes all parcels that will receive a special benefit from the proposed improvements described herein) were classified as either (1) Non-Residential or (2) Residential based upon the property type and use code description.

- Non Residential zoned parcels (IU and NC):
 - Undeveloped and developed Non-Residential properties were apportioned EAU's based upon their allowable density as determined by their LDC zoning classification.
 - Zoning Classification IU: minimum lot size = 1 acre (i.e. maximum allowable density for a 1 acre parcel is 1 EAU)
 - Zoning Classification NC: minimum lot size = 10,000 square feet or approximately 0.23 acres (i.e. maximum allowable density for a 1 acre parcel is 4 EAUs)

- Residential zoned parcels (RS-2, SRE, RS-1, RE, and RR):
 - Developed residential parcels were assigned one EAU per platted lot. In circumstances where a parcel consists of two or more platted lots, a visual analysis was performed to determine the potential future development capability of said parcel. In these instances, the determined development potential was determined to be no greater than the maximum allowable density based upon their zoning classification in the City's LDC.
 - Undeveloped platted residential parcels were assigned the number of benefitting dwelling units based on the number of platted lots within the parcel and apportioned one EAU per dwelling unit.
 - Undeveloped unplatted residential parcels were assigned the number of benefitting dwelling units based upon the allowable density based on their LDC zoning classification and apportioned one EAU per dwelling unit.
 - Zoning Classification RS – 2: minimum lot size = 7,500 square feet or approximately 0.17 acres (i.e. maximum allowable density for a 1 acre parcel is 5 single-family lots)
 - Zoning Classification SRE: minimum lot size = 8,000 square feet or approximately 0.18 acres (i.e. maximum allowable density for a 1 acre parcel is 5 single-family lots)
 - Zoning Classification RS – 1: minimum lot size = 8,000 square feet or approximately 0.18 acres (i.e. maximum allowable density for a 1 acre parcel is 5 single-family lots)
 - Zoning Classification RE: minimum lot size = 12,000 square feet or approximately 0.28 acres (i.e. maximum allowable density for a 1 acre parcel is 3 single-family lots)
 - Zoning Classification RR: minimum lot size = 1 acre (i.e. maximum allowable density for a 1 acre parcel is 1 single-family lot)

Discussion of the Apportionment Methodology

The methodology is a benefit-based approach, which is the legal requirement for a non-ad valorem assessment. Therefore, this methodology does not rely upon demand-based trip generation data directly because of the large number of vacant parcels, however each EAU when developed will be expected to produce on average a similar number of vehicular trips. In addition, the recommended methodology herein focuses on benefit to the property based upon the availability of the improved roads network allowing property owners access to and from their property to and from major collector roads within the City which is an appropriate matching of benefit received and recognizes the benefit to all properties regardless of whether or not trips are actually made to and from any class of properties or individual properties. This methodology recognizes two important facts:

- First and foremost, the Road improvements to be made by the City will be ready and available to be driven on to access property within the Assessment Area.
- The projects to be funded from this assessment result in improvements to roads that are “local” or primarily exist for the purpose of providing access to these parcels for the property owners.

Therefore, the second prong of the two-pronged test is met by the recommended fair apportionment of costs based upon benefit embodied in this cost apportionment approach.

4. ASSESSMENT CALCULATION

This section presents the results of the Assessment calculations and our recommendations based upon those results.

4.1 NET REVENUE REQUIREMENT

The Net Revenue Requirement (NRR) will be the basis for the Assessment calculations. The projection of costs is used to identify the assessment rates necessary to fully fund the improvements and associated annual debt service payments (the Maximum Assessment Rate). The NRR and projected costs are based upon the proposed project costs as provided by the City at the time of this analysis.

Projection of the Net Revenue Requirement

To calculate the NRR, the probable improvement costs were provided by City Staff. In addition, associated legal and consulting fees related to the development and implementation of this Assessment were included. For those property owners that choose to pay the assessment annually, a 5% collection cost and non-collection contingency was included along with the Statutory Discount of 4% for early payment discounts to determine the annual assessment revenue requirement. The projection of the NRR for each option is presented in Tables 2 and 3 while Tables 4 and 5 summarize the sources and uses of funds. The financing terms are assumed to include the following and are based upon the assumption that the debt issued will be in the form of a revenue bond⁸:

- Term of 15 years consisting of 30 semi-annual interest payments
- Interest rate equal to 3.5%
- Debt service reserve fund equal to one year of debt service
- Costs of issuance equal to 2% of the par amount

⁸ Financing terms are based upon assumptions as stated herein and will be finalized when debt issuance occurs.

The NRR is 100% Cost Recovery for the assessments calculated herein.

Table 2 – Net Revenue Requirement Calculation – Option 1: DCS

| Unit 32 Net Revenue Requirement Calculation | | |
|---|-----------|------------------|
| DCS Cost | \$ | 5,234,652 |
| Superpave Cost | \$ | - |
| Consulting Fees | \$ | 15,994 |
| Legal Fees | \$ | 58,500 |
| Total Capital Costs | \$ | 5,309,146 |
| Cost Recovery | | 100% |
| Adjusted Capital Costs | \$ | 5,309,146 |

Table 3 – Net Revenue Requirement Calculation – Option 2: Superpave

| Unit 32 Net Revenue Requirement Calculation | | |
|---|-----------|------------------|
| DCS Cost | \$ | - |
| Superpave Cost | \$ | 7,167,466 |
| Consulting Fees | \$ | 15,994 |
| Legal Fees | \$ | 58,500 |
| Total Capital Costs | \$ | 7,241,960 |
| Cost Recovery | | 100% |
| Adjusted Capital Costs | \$ | 7,241,960 |

Table 4 – Sources and Uses – Option 1: DCS

| | | | |
|----------------------|------|-----------|------------------|
| Proceeds | | \$ | 5,309,146 |
| Cost of Issuance | 2.0% | \$ | 118,883 |
| Debt Service Reserve | | \$ | 516,099 |
| Par Amount | | \$ | 5,944,128 |

Table 5 – Sources and Uses – Option 2: Superpave

| | | | |
|----------------------|------|-----------|------------------|
| Proceeds | | \$ | 7,241,960 |
| Cost of Issuance | 2.0% | \$ | 162,162 |
| Debt Service Reserve | | \$ | 703,987 |
| Par Amount | | \$ | 8,108,109 |

4.2 PROPERTY DATA AND ASSESSMENT UNITS

The basis for creating the Assessment calculations and associated assessment roll is the parcel database as provided by the Property Appraiser. The property database includes 1,888 parcels within Unit 32 and 27 parcels located outside of Unit 32 that are included in the Assessment Area as receiving benefit. Each parcel was assigned a number of EAUs for purposes of the assessment calculations based upon the type of property, acreage, and other factors as described herein.

Exempt and Excluded Properties

There is a distinction between exempt and excluded parcels. Certain tax parcels are exempt by State statutes or case law from non-ad valorem assessments such as this Assessment even those that benefit. Such exempt parcels are included in the cost apportionment but will not be billed an assessment. The unrecovered revenue will be funded through other City general revenues. To identify the exempt parcels, the use codes assigned to each property by the Property Appraiser were utilized.

Parcels that are excluded from this assessment because they receive no benefit from road improvements, are lake bottoms, marshes, and other property types that will likely never develop. The excluded properties are identified by the property use codes contained in the Property Appraiser's database.

This study has assumed the required exemptions for City, County, State, and Federal properties. For purposes of this assessment it is assumed that the City will not impose any elective exemptions for properties coded as Not-for-profit in the Property Appraiser's database.

4.3 ASSESSMENT RATE CALCULATION

Identification of Assessment Units

The following steps were taken to populate assessment units for the assessment rate calculations:

1. All parcels identified as not receiving any benefit from the proposed improvements were excluded from the EAU calculation.
2. All remaining parcels exempt or otherwise located within the Assessment Area were identified by the full parcel database and were included in the determination of the number of EAUs to be included for each parcel and in total.

Table 6 presents the total parcels within the Assessment Area and provides the excluded parcels (not benefitted or otherwise excluded), exempt parcels, and determination of total EAUs within the Assessment Area by their corresponding use code and class.

Table 6 – Equivalent Assessment Units

| UNIT 32 ASSESSMENT AREA | | | | | | | | |
|-------------------------|--|--------|------------------|---------------------------|------------------------|-------------------------------|--|------------------------------|
| Code | UseCodeDesc | Exempt | Total Parcels | Not Benefitted Parcels | Benefitting Parcels | Assessment Methodolog y | (Less: Excluded) Apportioned EAUs | (Less:Exempt) Billed EAUs |
| 7100 | C-CHURCH | N | 1 | 1 | - | Acreage | - | - |
| 8910 | C-MUNICIPALLY OWNED LAND - IMPROVED | Y | 1 | 1 | - | Acreage | - | - |
| 1000 | C-VACANT COMMERCIAL LAND | N | 2 | 2 | - | Acreage | - | - |
| 7000 | C-VACANT LAND - INSTITUTIONAL | N | 1 | - | 1 | Acreage | 1 | 1 |
| 8080 | C-VACANT MUNICIPALLY OWNED LAND | Y | 5 | - | 5 | Acreage | 162 | - |
| 132 | R-RESIDENTIAL RELATED AMENITIES | N | 2 | 2 | - | N/A | - | - |
| 113 | R-SINGLE FAMILY - MODULAR | N | 2 | 1 | 1 | DU | 1 | 1 |
| 110 | R-SINGLE FAMILY RESIDENCE | N | 481 | 40 | 441 | DU | 498 | 498 |
| 819 | R-TWO RESIDENTIAL UNITS - NOT ATTACHED | N | 1 | - | 1 | DU | 2 | 2 |
| 10 | R-VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | N | 1,396 | 72 | 1,324 | DU | 1,485 | 1,485 |
| 9 | R-VACANT RESIDENTIAL LAND (SINGLE FAMILY, UNPLATTED) - LESS THAN 5 | N | 1 | 1 | - | Acreage | - | - |
| 9600 | C-WASTE LAND | N | 1 | 1 | - | N/A | - | - |
| 9909 | R-VACANT RESIDENTIAL LAND (SINGLE-FAMILY, UNPLATTED) - 5 ACRES OR | N | 7 | - | 7 | Acreage | 411 | 411 |
| Total | | | 1,901 | 121 | 1,780 | | 2,560 | 2,398 |

| UNIT 32 ASSESSMENT AREA | | | | | | | | |
|---|--|--|------------------|---------------------------|------------------------|--|--|------------------------------|
| Land Development Code Zoning Classification | | | Total Parcels | Not Benefitted Parcels | Benefitting Parcels | | (Less: Excluded) Apportioned EAUs | (Less:Exempt) Billed EAUs |
| IU | IU - Institutional Use District | | 2 | 1 | 1 | | 1 | 1 |
| NC | NC Neighborhood Commercial District | | 2 | 2 | - | | - | - |
| RR | RR - Rural Residential District | | 27 | 3 | 24 | | 94 | 94 |
| RS-2 | RS-2 - Single-family Residential District | | 1,867 | 115 | 1,752 | | 2,172 | 2,010 |
| RE | RE - Estate Residential District | | 1 | - | 1 | | 1 | 1 |
| RS-1 | RS-1 - Single-family Residential District | | 1 | - | 1 | | 75 | 75 |
| SRE | SRE - Suburban Residential Estate Category | | 1 | - | 1 | | 217 | 217 |
| Total | | | 1,901 | 121 | 1,780 | | 2,560 | 2,398 |

Unity of Title

Property owners of a parcel which consists of more than one lot may elect to declare a “Unity of Title” which would voluntarily legally restrict or limit the use of additional lots/units within the parcel. For example, a property owner of a parcel with three combined lots may make a declaration of “Unity of Title” on either one or two of the lots/units therefore reducing the assigned EAUs and amount of assessment, but also limiting the ability of the property owner to further develop said parcel beyond the lots/units declared in the unity of title declaration.

As such, for purposes of calculating a maximum assessment rate, assumptions have been made herein regarding assumed “Unity of Title” declarations that may be made by affected property owners. The assumptions made are that all parcels with 5 or fewer lots/units will elect a unity of title to one lot/unit, and all parcels with greater than 5 lots/units will elect a unity of title to one half of the original lots/units. Therefore, the assessments presented herein represent a reasonable maximum assessment amount and to the extent that fewer parcels make a unity-of-title election, the final assessments will be less than presented here.

Full Cost Recovery Rate Calculation

Property owners have two options for payment of the assessment; 1) prepay their apportioned costs, or 2) make annual assessment payments over 15 years. To calculate the full cost recovery assessments, we utilized the apportioned costs and total assessable units per property classification as identified in the previous sub-sections of this report. The full cost is apportioned to all properties included within the

assessment area. While exempt properties are included in the apportionment, their assessment will be paid by the City from other legally available revenues. The costs were divided by the number of EAUs identified to compute the Assessment per EAU as shown in Table 7 and 8 for Options 1 and 2 respectively.

Table 7 – Full Cost Recovery Option 1: DCS⁹

| Unit 32 Pre-Payment Assessment Calculation | |
|---|-----------------|
| Adjusted Capital Costs | \$ 5,309,146 |
| Equivalent Assessment Units | 2,101 |
| Pre-payment Assessment per EAU | \$ 2,527 |

Table 8 – Full Cost Recovery Option 2: Superpave¹⁰

| Unit 32 Pre-Payment Assessment Calculation | |
|---|-----------------|
| Adjusted Capital Costs | \$ 7,241,960 |
| Equivalent Assessment Units | 2,101 |
| Pre-payment Assessment per EAU | \$ 3,447 |

Property owners have the option to pay their apportioned costs for the project as shown in Tables 7 and 8 or to pay the assessment through the non-ad-valorem assessment portion of their Brevard County property taxes. In this case, certain costs are borne related to the acquisition of debt financing to pay for the project and the administration of the annual assessment including:

- Costs related to the issuance of debt and associated interest,
- Collection costs of 5% for administration, billing, collection, and a non-collection contingency,
- Statutory discount of 4% for early payments of Brevard County taxes.

Tables 9 and 10 present the estimated annual assessment at full cost recovery for options 1 and 2 respectively.

⁹ EAUs adjusted based upon assumed "Unity of Title" declarations.

¹⁰ EAUs adjusted based upon assumed "Unity of Title" declarations.

Table 9 – Annual Assessment: Option 1: DCS¹¹

| Unit 32 Annual Assessment Calculation | | | |
|---------------------------------------|-----------------|-------------|------------------|
| Proceeds | | \$ | 5,309,146 |
| Cost of Issuance | 2.0% | \$ | 118,883 |
| Debt Service Reserve | | \$ | 516,099 |
| Par Amount | | \$ | 5,944,128 |
| | Interest | Term | |
| | 3.5% | 15 | |
| Annual Debt Service Component | | \$ | 516,099 |
| Collection Cost Component | 5.0% | \$ | 25,805 |
| Statutory Discount Amount | 4.0% | \$ | 20,644 |
| Total Annual Project Costs | | \$ | 562,548 |
| | | | |
| Equivalent Assessment Units | | | 2,101 |
| Annual Assessment per EAU | | \$ | 268 |

Table 10 – Annual Assessment: Option 2: Superpave¹²

| Unit 32 Annual Assessment Calculation | | | |
|---------------------------------------|-----------------|-------------|------------------|
| Proceeds | | \$ | 7,241,960 |
| Cost of Issuance | 2.0% | \$ | 162,162 |
| Debt Service Reserve | | \$ | 703,987 |
| Par Amount | | \$ | 8,108,109 |
| | Interest | Term | |
| | 3.5% | 15 | |
| Annual Debt Service Component | | \$ | 703,987 |
| Collection Cost Component | 5.0% | \$ | 35,199 |
| Statutory Discount Amount | 4.0% | \$ | 28,159 |
| Total Annual Project Costs | | \$ | 767,346 |
| | | | |
| Equivalent Assessment Units | | | 2,101 |
| Annual Assessment per EAU | | \$ | 365 |

Assessment Roll

The complete assessment roll will be provided to the City electronically.

¹¹ EAUs adjusted based upon assumed "Unity of Title" declarations.

¹² EAUs adjusted based upon assumed "Unity of Title" declarations.

Disclaimer

This document was produced by Stantec Consulting Services, Inc. ("Stantec") for the City of Palm Bay and is based on a specific scope agreed upon by both parties. Stantec's scope of work and services do not include serving as a "municipal advisor" for purposes of the registration requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission. Stantec is not advising the City of Palm Bay, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, terms, or other similar matters concerning such products or issuances.

In preparing this report, Stantec utilized information and data obtained from City of Palm Bay or public and/or industry sources. Stantec has relied on the information and data without independent verification, except only to the extent such verification is expressly described in this document. Any projections of future conditions presented in the document are not intended as predictions, as there may be differences between forecasted and actual results, and those differences may be material.

Additionally, the purpose of this document is to summarize Stantec's analysis and findings related to this project, and it is not intended to address all aspects that may surround the subject area. Therefore, this document may have limitations, assumptions, or reliances on data that are not readily apparent on the face of it. Moreover, the reader should understand that Stantec was called on to provide judgments on a variety of critical factors which are incapable of precise measurement. As such, the use of this document and its findings by City of Palm Bay should only occur after consultation with Stantec, and any use of this document and findings by any other person is done so entirely at their own risk.

RESOLUTION NO. 2018-31

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, RELATING TO THE CONSTRUCTION AND FUNDING OF THE PORT MALABAR UNIT 32 ROAD IMPROVEMENT PROJECT WITHIN THE CITY OF PALM BAY; ESTABLISHING THE TERMS AND CONDITIONS OF PROPOSED SPECIAL ASSESSMENTS TO FUND THE PORT MALABAR UNIT 32 ROAD IMPROVEMENT PROJECT; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED ASSESSMENTS AND THE METHOD OF THEIR COLLECTION; DIRECTING THE PROVISION OF NOTICE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF PALM BAY, FLORIDA, AS FOLLOWS:

ARTICLE I DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires.

"Adjusted Prepayment Amount" means (A) the amount required to prepay the Assessment for each Tax Parcel located within the City (1) following issuance of any Temporary Original Obligations as computed pursuant to Section 3.04(B) hereof and revised annually pursuant to Section 3.05(I) hereof, (2) following the issuance of the Permanent Original Obligations, as computed pursuant Section 3.04(C) hereof and revised annually pursuant to Section 3.05(I) hereof, and (3) following issuance of any Refunding Obligations, as computed pursuant to Section 3.04(D) hereof and revised annually pursuant to Section 3.05(I) hereof; and (B) the comparable prepayment amounts computed and revised for each Tax Parcel against which a special assessment has been imposed to finance other Local Improvements, if any, funded from proceeds of the Obligations.

"Annual Debt Service Component" means the amount computed for each Tax Parcel pursuant to Section 3.05(E) hereof.

"Annual Debt Service Factor" means the factor computed pursuant to Section 3.05(D) hereof.

"Assessment" means an annual special assessment imposed against property located within the Assessment Area to fund the Project Cost of the Port Malabar Unit 32 Road Improvement Project to serve the Assessment Area and related expenses, computed in the manner described in Section 3.05 hereof.

"Assessment Period" means the time period estimated by the City during which Assessments are imposed for any portion of the Obligations that remain outstanding unless otherwise prepaid pursuant to Sections 3.06 or 3.07 hereof. The Assessment Period shall be 15 years.

"Assessment Roll" means a non-ad valorem assessment roll relating to the Project Cost of the Port Malabar Unit 32 Road Improvement Project to serve the Assessment Area and related expenses.

"Building" means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes.

"Capital Cost" means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, and installation (including demolition, environmental mitigation and relocation) of the Project and imposition of the Assessments under generally accepted accounting principles; and including reimbursement to the City

for any funds advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

"City Manager" means the chief executive officer of the City, or such person's designee.

"Collection Cost" means all or any portion of the estimated cost to be incurred by the City during any Fiscal Year in connection with the collection of Assessments.

"Collection Cost Component" means the amount computed for each Tax Parcel pursuant to Section 3.05(F) hereof.

"Commercial Property" means a Tax Parcel zoned NC in accordance with the City's land development code as of the date of this Initial Assessment Resolution.

"Council" means the City Council of Palm Bay, Florida.

"Debt Service Amount" means the amount computed pursuant to Section 3.05(A) hereof.

"Declaration of Unity of Title" means a condition, restriction, and limitation that a property owner of two or more Lots has voluntarily imposed on said Lots in accordance with Section 3.10 hereof, to legally condition, restrict, and limit the use of said Lots as a covenant running with the land so that such property will be considered one Lot for purposes of the Assessment.

"Dwelling Unit" means a building, or portion thereof, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only.

"EAU" or "Equivalent Assessment Unit" means the standard unit to be used in calculating the Assessments for the Project, as assigned for each Tax Parcel in accordance with Section 3.03 hereof.

"Final Assessment Resolution" means the resolution described in Section 56.43(F) of the Ordinance that imposes Assessments within the Assessment Area.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the City.

"Funding Agreement" means the agreement pursuant to which the City agrees to deliver the Obligations against payment therefor by the purchaser or underwriter of such Obligations.

"Government Property" means property owned by the United States of America or any agency thereof, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

"Initial Prepayment Amount" means the amount computed pursuant Section 3.04(A) hereof for each Tax Parcel located within the Assessment Area.

"Institutional Property" means a Tax Parcel zoned IU in accordance with the City's land development code as of the date of this Initial Assessment Resolution.

"Land Area" means the total land area of each Non-Residential Parcel expressed in square feet as reflected in the Brevard County Property Appraiser's ad valorem tax roll database.

"Lot" means any of the Platted Lots or Parcels of Record within the Assessment Area on a Dwelling Unit has been or can be constructed or sited in accordance with applicable laws and regulations, after giving effect to any (1) recorded Unity of Title, or (2) further legal, subdivision of any of the numbered lots or parcels as described in any deed or other muniment of title recorded in the public records of the City as of the date of the Final Assessment Resolution

"Modified Debt Service Amount" means the amount computed pursuant to Section 3.05(C) hereof.

"Non-Residential Parcel" means Institutional Property and Commercial Property.

"Obligations" means Original Obligations or Refunding Obligations.

"Ordinance" means the Master Capital Project and Service Assessment Ordinance, adopted by the Council on May 4, 2017, as Ordinance No. 2017-35, and codified in Chapter 56 of the City of Palm Bay Code of Ordinances, as may be amended from time to time.

"Original Obligations" means Temporary Original Obligations and Permanent Original Obligations.

"Parcel of Record" means an unplatted parcel of record or a subdivided Platted Lot in existence on the effective date of this Resolution, on which one or more Dwelling Units has been or can be constructed or sited in accordance with the City's current land development regulations.

"Pass-Through Obligations" means internal loans between certain funds of the City used to initially finance Local Improvements and designated as such by the City, the

repayment of which is secured, in whole or in part, by proceeds of the Assessments and which the City subsequently pledges the proceeds of the internal loans, in whole or in part, to a series of bonds or other evidence of indebtedness.

"Permanent Original Obligations" means notes, bonds or other evidence of indebtedness including, but not limited to, Pass-Through Obligations, secured by proceeds of the Assessments that are issued to refinance any Temporary Original Obligations and finance any remaining Project Costs.

"Platted Lot" means a platted building lot within the Assessment Area as of the date of the Final Assessment Resolution on which one (1) Dwelling Unit has been or can be constructed or sited in accordance with applicable laws and regulations.

"Port Malabar Unit 32 Road Improvement Assessment Area" or **"Assessment Area"** means the properties that will be specially benefited by the Project, as more particularly described in Section 3.01 and Appendix C hereof.

"Prepayment Modification Factor" means the factor computed pursuant to Section 3.05(B) hereof.

"Proforma Obligations" means a proforma of the Permanent Original Obligations prepared by the City or its financial advisor utilizing the following assumptions: (A) the principal amount of the Permanent Original Obligations is sufficient to fund (1) the Project Cost of the Project, (2) payment of the estimated Transaction Cost for the Permanent Original Obligations, (3) amounts to be deposited in any reserve account established for the Permanent Original Obligations, and (4) any other amounts deemed necessary by the City or its financial advisor, related to the Project and Capital Facilities Charges; (B) the

Permanent Original Obligations are payable in substantially equal annual payments over the Assessment Period from their date of issuance; and (C) the Permanent Original Obligations bear interest at rates that, in the reasonable judgment of the City or its financial advisor (taking into consideration possible interest rate fluctuations between the date on which such proforma is prepared and the estimated date for issuance of the Permanent Original Obligations), may be available on the estimated issuance date for the Permanent Original Obligations.

"Project" or "Port Malabar Unit 32 Road Improvement Project" means a "Local Improvement" as defined in the Ordinance and hereby more specifically defined as the design, acquisition, construction, and installation of paving, repaving, superpaving, surfacing, and resurfacing of the local roadway network providing ingress and egress within the Assessment Area, including related stormwater improvements, and other related capital improvements and facilities to be undertaken by the City.

"Project Cost" means (A) the Capital Cost of the Project, (B) the Transaction Cost associated with the Obligations attributable to the Project, (C) interest accruing on such Obligations for such period of time as the City deems appropriate, (D) the debt service reserve fund or account, if any, established for the Obligations attributable to the Project, and (E) any other costs or expenses related thereto.

"Refunding Obligations" means a series of bonds or other evidence of indebtedness issued by the City to refund all or any portion of the Permanent Original Obligations or any indebtedness issued to refinance the Permanent Original Obligations; provided, however, Refunding Obligations shall not include Pass-Through Obligations.

"Residential Parcel" means those Tax Parcels within the Assessment Area on which a Dwelling Unit has been or can be constructed or sited.

"Separately Billed Property" means properties that were not included in the geographic area described in Resolution No. 2017-63 adopted by the City on December 21, 2017, but that will be specially benefitted by the Project, are included within the Assessment Area, and upon which Assessments will be imposed and collected in accordance with Section 4.01 hereof.

"Statutory Discount Amount" means the amount computed for each Tax Parcel pursuant to Section 3.05(G) hereof.

"Tax Parcel" means a parcel of property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

"Tax Roll" means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"Temporary Original Obligations" means that portion of the loan or loans incurred by the City to (A) finance the Project Cost of the Project on an interim basis, and (B) finance the payment of any Transaction Cost for the issuance of the Temporary Original Obligations.

"Transaction Cost" means the costs, fees and expenses incurred by the City in connection with the issuance and sale of any series of Obligations, including but not limited to (A) rating agency and other financing fees; (B) the fees and disbursements of bond counsel and disclosure counsel, if any; (C) the underwriters' discount; (D) the fees and disbursements of the City's financial advisor; (E) the costs of preparing and printing

the Obligations, the preliminary official statement, the final official statement, and all other documentation supporting issuance of the Obligations; (F) the fees payable in respect of any municipal bond insurance policy; (G) administrative, development, credit review, and all other fees associated with any pooled commercial paper or similar interim financing program; and (H) any other costs of a similar nature incurred in connection with issuance of such Obligations.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

"Vacant Property" means Residential Parcels within the Assessment Area that contain one or more Lots that are not improved by a Dwelling Unit that will be serviced by the Project and have not received a Certificate of Occupancy for any Dwelling Unit on said unimproved Lots as of the Effective Date of this Resolution.

SECTION 1.02. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

SECTION 1.03. LEGISLATIVE FINDINGS. It is hereby ascertained, determined and declared that the Assessments provide a special benefit to property and

are fairly and reasonably apportioned among all benefitted properties based upon that certain report prepared by Stantec, Inc., entitled "Unit 32 Roads Assessment - Final Report," dated as of July, 2018 (the "Road Assessment Report"), which is hereby incorporated herein by reference, and the following legislative findings:

(A) Pursuant to Article VIII, section 2(b), Florida Constitution, sections 166.021 and 166.041, Florida Statutes, and the City of Palm Bay Home Rule Charter, the City has all powers of local self-government to perform municipal functions and render municipal services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of ordinances.

(B) The Council has enacted the Ordinance to provide for the creation of assessment areas and authorize the imposition of Assessments to fund the construction of Local Improvements to serve the property located therein.

(C) The Port Malabar Unit 32 Road Improvement Project constitutes a Local Improvement as defined in the Ordinance, which permits the City to provide for the construction, reconstruction, repair, paving, repaving, surfacing, and widening of streets and boulevards. In order to provide reliable ingress and egress to properties within the Assessment Area, it is necessary for the City to construct the Project.

(D) The Council desires to create the Assessment Area for the purpose of constructing the Project to serve approximately 1,901 Tax Parcels within the boundaries of the Assessment Area.

(E) The construction of the Project will provide a special benefit to the Tax Parcels located within the Assessment Area and will possess a logical relationship to the

use and enjoyment of property by providing for: (1) adequate and reliable ingress and egress to all properties within the Assessment Area, which improves the utilization, marketability, and development potential of said properties; (2) the protection and/or enhancement of property and rental values; and (3) access to and delivery of essential services, including but not limited to fire rescue, emergency medical services, solid waste collection, law enforcement, postal delivery, and transportation of students by the Brevard County School District.

(F) As further described in the Road Assessment Report, the rate of Assessment for the Project Cost of the Project for all Tax Parcels within the City shall be expressed in terms of "Equivalent Assessment Units" or "EAUs," which is a fair and reasonable method of apportionment because EAUs, as expressed based upon the number of Lots or Land Area pursuant to Section 3.01 hereof, are a reasonable proxy for the amount of special benefit provided to the assessed properties by the Project.

(G) The Assessment Area consists primarily of Residential Parcels. Furthermore, the majority of Tax Parcels within the Assessment Area are Platted Lots, on which only one Dwelling Unit may be sited, pursuant to the City's current land development regulations. Given that all such Dwelling Units produce about the same number of vehicular trips on an average, annual basis, they should benefit similarly from the improved ingress and egress as a result of the Project. Accordingly, it is fair and reasonable to assign all such Platted Lots one (1.0) EAU regardless of minor variations in Platted Lot size.

(H) Some Tax Parcels within the Assessment contain Parcels of Record or multiple Platted Lots such that more than one Dwelling Unit may permissibly be sited thereon pursuant to the City's current land development regulations. In order to properly apportion the Project Costs to such Tax Parcels, it is fair and reasonable to assign EAUs to such Tax Parcels based on the maximum number of Lots that may be sited thereon based on the City's current land development regulations, as this represents the highest and best use of such properties. Additionally, property owners of two or more Lots will have the option to execute a Declaration of Unity of Title whereby such property will be considered one Lot for purposes of the Assessment and assigned one (1) EAU.

(I) A Non-Residential Parcel's utilization of the roads within the Assessment Area when developed to its highest and best use can reasonably be expected to correlate with the property's Land Area and its allowable use and density, as determined by the City's current land development regulations. Similarly zoned, larger Non-Residential Parcels have the potential for greater development density, which is reasonably likely to result in greater vehicular trips that must be accommodated by the Project. Furthermore, the City's current land development regulations are such that the minimum size of a developable Non-Residential Parcel within the Assessment Area is substantially similar to the size of a Lot attributable to a Residential Parcel. Therefore, it is fair and reasonable to assign each Non-Residential Parcel EAUs based on its Land Area and its allowable use.

(J) It is fair and reasonable to treat Vacant Property in the same manner as similarly situated improved Residential Parcels and Non-Residential Parcels, as

applicable, because such treatment accounts for highest and best use of such Vacant Property and acknowledges the increased marketability and development potential of Vacant Property resulting from the Project.

(K) In order to reduce the financial impact the Assessment will have on the real property owners in the proposed Assessment Area, the City has decided to obtain financing on behalf of the real property owners for their share of the Project Cost. The financing is expected to have a maturity of fifteen (15) years or less.

(L) The Council hereby finds and determines that the Assessments associated with the Project to be imposed in accordance with this Resolution provide an equitable method of funding construction of the Project by fairly and reasonably allocating the cost to specially benefitted property, based upon the number of EAUs attributable to each Tax Parcel, in the manner hereinafter described.

ARTICLE II
NOTICE AND PUBLIC HEARING

SECTION 2.01. **ESTIMATED CAPITAL COST AND PROJECT COST.** The estimated Capital Cost of the Project is \$7,241,960. The estimated Project Cost for the Project is \$8,108,109. The Project Cost will be funded through the imposition of Assessments against property located within the City in the manner set forth in Article III hereof.

SECTION 2.02. **ASSESSMENT ROLL.**

(A) The City Manager is hereby directed to prepare a final estimate of the Capital Cost and Project Cost of the Project and to prepare the preliminary Assessment Roll in the manner provided in the Ordinance.

(B) The City Manager shall apportion the Capital Cost and Project Cost among the parcels of real property within the City in conformity with Article III hereof.

(C) The estimate of Capital Cost, Project Cost, and the Assessment Roll shall be maintained on file in the Office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each Tax Parcel can be determined by use of a computer terminal available to the public.

SECTION 2.03. **PUBLIC HEARING.** A public hearing will be conducted by the Council on September 6, 2018, in the City Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, at 7:00 p.m., or as soon thereafter as the item can be heard, to consider (A) creation of the Assessment Area, (B) imposition of the Assessments, and (C) collection of the Assessments pursuant to the Uniform Assessment Collection Act.

SECTION 2.04. **NOTICE BY PUBLICATION.** Upon completion of the materials required by Section 2.02 hereof, the City Manager shall publish a notice of the public hearing authorized by Section 2.03 hereof in the manner and the time provided in Section 56.43(D) of the Ordinance. Such notice shall be in substantially the form attached hereto as Appendix A.

SECTION 2.05. **NOTICE BY MAIL.**

(A) Upon completion of the materials required by Section 2.02 hereof, the City Manager shall, at the time and in the manner specified in Section 56.43(E) of the Ordinance, provide first class mailed notice of the public hearing authorized by Section 2.03 hereof to each property owner proposed to be assessed at the address indicated on the Tax Roll. Such notice shall be in substantially the form attached hereto as Appendix B.

(B) The notice by mail shall inform each property owner of their ability to file a Declaration of Unity of Title for purposes of the Assessments. All Declaration of Unity of Titles must be filed on or before October 15, 2018 on a form approved by the City.

ARTICLE III ASSESSMENTS

SECTION 3.01. DESCRIPTION OF ASSESSMENT AREA.

(A) The Assessment Area shall include the property shown in Appendix C attached hereto and incorporated herein by reference.

(B) The Assessment Area is proposed for the purpose of improving the use and enjoyment of all properties located therein by constructing the Project to provide adequate ingress and egress to all such properties.

SECTION 3.02. IMPOSITION OF ASSESSMENTS.

(A) Assessments shall be imposed against property located within the Assessment Area for a period of fifteen (15) years, the amount of which shall be computed in accordance with this Article III. The first annual Assessment will be included on the ad valorem tax bill mailed in November 2018.

(B) In accordance with Section 56.20(D) of the Ordinance, when imposed, the Assessment for each Fiscal Year shall constitute a lien upon the Tax Parcels located within the Assessment Area, which lien shall be equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid.

SECTION 3.03. ASSESSMENT UNITS.

(A) To reflect the relative amount of special benefit to be derived from construction of the Project, the number of EAUs attributable to each Tax Parcel shall be determined in the manner set forth in this Section 3.03(A).

(1) Residential Parcels shall be assigned one (1.0) EAU for each Lot assigned to the Tax Parcel.

(2) Commercial Parcels shall be assigned one (1) EAU for each 10,000 square feet of Land Area (rounded down to the nearest multiple of 10,000) assigned to the Tax Parcel.

(3) Institutional Parcels shall be assigned one (1) EAU for each acre of Land Area assigned to the Tax Parcel, rounded down to the nearest acre.

SECTION 3.04. PREPAYMENT AMOUNTS.

(A) Upon adoption of the Final Assessment Resolution, an Initial Prepayment Amount for each Tax Parcel located within the Assessment Area shall be calculated as the sum of (1) the amount computed by (a) dividing the number of EAUs attributable to such Tax Parcel by the total number of EAUs attributable to all Tax Parcels within the Assessment Area, and (b) multiplying the result by the estimated Capital Cost of the Project.

(B) Following the issuance of any Temporary Original Obligations, an Adjusted Prepayment Amount for each Tax Parcel shall be computed by multiplying (1) the amount computed by dividing (a) the Initial Prepayment Amount established herein for such Tax Parcel by (b) the sum of (i) the aggregate Initial Prepayment Amounts for all Tax Parcels

within the Assessment Area, and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other Local Improvements funded from proceeds of the Temporary Original Obligations by (2) the principal amount of the Proforma Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(I) hereof.

(C) Following issuance of the Permanent Original Obligations, an Adjusted Prepayment Amount for each Tax Parcel shall be computed by multiplying (1) the amount computed by dividing (a) the Adjusted Prepayment Amount established herein for such Tax Parcel by (b) the sum of (i) the aggregate Adjusted Prepayment Amounts for all Tax Parcels within the Assessment Area and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other Local Improvements funded from proceeds of the Permanent Original Obligations by (2) the principal amount of the Permanent Original Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(I) hereof.

(D) Following issuance of any Refunding Obligations, a new Adjusted Prepayment Amount for each Tax Parcel shall be computed by multiplying (1) the amount computed by dividing (a) the Adjusted Prepayment Amount for such Tax Parcel by (b) the sum of (i) the aggregate Adjusted Prepayment Amounts for all Tax Parcels within the Assessment Area and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other

Local Improvements funded from proceeds of the Obligations being refunded by (2) the principal amount of such Refunding Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(l) hereof.

SECTION 3.05. **COMPUTATION OF ASSESSMENTS.** Assessments will be imposed for each Fiscal Year in which Obligations remain outstanding and collected on the ad valorem tax bill in the manner authorized by the Uniform Assessment Collection Act. The annual Assessment shall be computed for each Tax Parcel in the manner set forth in this Section 3.05.

(A) **DEBT SERVICE AMOUNT.** A "Debt Service Amount" shall be computed for each Fiscal Year in the following manner:

(1) For each Fiscal Year in which Temporary Original Obligations will be outstanding, the "Debt Service Amount" shall be computed as the amount which would be payable in respect of the Proforma Obligations in accordance with a debt service schedule prepared with principal installments equal those established for the Proforma Obligations.

(2) Following issuance of the Permanent Original Obligations, the "Debt Service Amount" shall be computed for each Fiscal Year as the amount which would be payable in respect of the Permanent Obligations in accordance with a debt service schedule prepared with principal installments equal those established in the Funding Agreement; provided however, that the "Debt Service Amount" for any Fiscal Year shall not exceed the principal amount of Permanent Obligations then outstanding plus interest thereon.

(B) PREPAYMENT MODIFICATION FACTOR. A "Prepayment Modification Factor" shall be computed for each Fiscal Year by dividing (1) the amount computed by subtracting (a) the sum of the Adjusted Prepayment Amounts, as of the date on which the Obligations are issued by the City, for all Tax Parcels as to which prepayment has been made following issuance of the Obligations, from (b) the total principal amount of Obligations initially issued by the City, by (2) the total principal amount of Obligations initially issued by the City.

(C) MODIFIED DEBT SERVICE AMOUNT. A "Modified Debt Service Amount" shall be computed for each Fiscal Year by multiplying (1) the Debt Service Amount by (2) the Prepayment Modification Factor.

(D) ANNUAL DEBT SERVICE FACTOR. An "Annual Debt Service Factor" shall be computed for each Fiscal Year by dividing (1) the Adjusted Prepayment Amount for such Tax Parcel, by (2) the aggregate Adjusted Prepayment Amount.

(E) ANNUAL DEBT SERVICE COMPONENT. The "Annual Debt Service Component" shall be computed for each Fiscal Year for each Tax Parcel by multiplying (1) the Modified Debt Service Amount, by (2) the Annual Debt Service Factor.

(F) COLLECTION COST COMPONENT. The "Collection Cost Component" shall be computed each Fiscal Year for each Tax Parcel by (1) dividing (a) the Adjusted Prepayment Amount for such Tax Parcel by (b) the sum of the aggregate Adjusted Prepayment Amount remaining in the Assessment Area, and (2) multiplying the result by the Collection Cost.

(G) STATUTORY DISCOUNT AMOUNT. The "Statutory Discount Amount" shall be computed for each Tax Parcel as the amount of the maximum discount for early payment of ad valorem taxes and non ad valorem assessments plus a reasonable contingency for uncollectible amounts, such amount to be calculated by deducting (1) the sum of (a) the Annual Debt Service Component and (b) the Collection Cost Component, from (2) the amount computed by dividing (a) the sum of (i) the Annual Debt Service Component and (ii) the Collection Cost Component, by (b) 0.96.

(H) ASSESSMENT. The annual Assessment for each Tax Parcel shall be computed as the sum of (1) the Annual Debt Service Component, (2) the Collection Cost Component, and (3) the Statutory Discount Amount.

(I) REVISION OF ADJUSTED PREPAYMENT AMOUNT. Upon certification of the Assessment Roll each Fiscal Year, the Adjusted Prepayment Amount for each Tax Parcel shall be recomputed by deducting (1) the amount computed by (a) dividing (i) the principal component of the Debt Service Amount utilized to compute the Annual Debt Service Component for the Assessment Roll by (ii) the total Debt Service Amount utilized to compute the Annual Debt Service Component for the Assessment Roll and (b) multiplying the result by the Annual Debt Service Component included on the Assessment Roll for the Tax Parcel, from (2) the Adjusted Prepayment Amount (or for the initial Assessment Roll, the Initial Prepayment Amount) utilized to compute the annual Assessment included on the Assessment Roll for such Tax Parcel.

SECTION 3.06. PREPAYMENT OPTION.

(A) Initial Prepayment Option: Following adoption of the Final Assessment Resolution, the City Manager shall provide first class mailed notice to the owner of each Tax Parcel subject to the Assessment of the owner's option to prepay all future annual Assessments. On or prior to the date specified in such notice, the owner of each Tax Parcel subject to the Assessment shall be entitled to prepay all future annual Assessments, upon payment of the Initial Prepayment Amount; provided, however, that due to the prepayment period extending beyond the deadline for certification of the Assessment Roll for the Fiscal Year beginning on October 1, 2018, the annual Assessment amount computed for each Tax Parcel in accordance with Section 3.05 will be billed on the Tax Bill and payable pursuant to the Uniform Assessment Collection Act.

(B) Additional Prepayment Option: Following the date specified in the notice provided pursuant to Section 3.06(A) hereof, or such later date as the Council may allow in its sole discretion, the owner of each Tax Parcel subject to the Assessments may be entitled to prepay all future unpaid annual Assessments upon payment of an amount equal to the sum of (1) the Adjusted Prepayment Amount for such Tax Parcel, and (2) interest on the Adjusted Prepayment Amount from the most recent date to which interest on the Obligations has been paid to the next date following such prepayment on which the City can redeem Obligations after providing all notices required to redeem all or any portion of the Obligations. During any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the future unpaid annual Assessments

for the Tax Parcel by the amount of the Assessment that has been certified for collection with respect to such Tax Parcel.

(C) The amount of all prepayments made pursuant to this Section 3.06 shall be final. The City shall not be required to refund any portion of a prepayment if (1) the Capital Cost or Project Cost of the Project is less than the amount upon which such Initial Prepayment Amount or Adjusted Prepayment Amount was computed, (2) the Initial Prepayment Amount or Adjusted Prepayment Amount is reduced upon issuance of the Permanent Original Obligations, or (3) the annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

SECTION 3.07. MANDATORY PREPAYMENT.

(A) The owner of a Tax Parcel subject to the Assessment shall immediately prepay all future unpaid annual Assessments for such Tax Parcel if (1) the Tax Parcel is to be acquired or otherwise transferred to an entity for which Assessments cannot be collected pursuant to the Uniform Assessment Collection Act through condemnation, negotiated sale or otherwise, (2) the Tax Parcel is subject to annexation by a governmental unit, or (3) a tax certificate has been issued and remains outstanding in respect of the Tax Parcel and the City, at its sole option, elects to accelerate the Assessment. In the case of (1) or (2) above, the owner of the Tax Parcel prior to condemnation, sale or other transfer must notify the City at least 30 days prior to the proposed acquisition or transfer date in order to allow the City sufficient time to determine the final amount due. Failure to provide such notice shall cause an automatic acceleration

of such Assessment the effective date of which is 10 days prior to the proposed acquisition or transfer date.

(B) The amount required to prepay the future unpaid annual Assessments will be equal to the sum of (1) the Adjusted Prepayment Amount for such Tax Parcel, and (2) interest on the Adjusted Prepayment Amount, computed at a rate one full percentage point in excess of the rate on the Obligations, from the most recent date to which interest on the Obligations has been paid to the next date following such prepayment on which the City can redeem Obligations after providing all notices required to redeem all or any portion of the Obligations.

(C) During any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the future unpaid annual Assessments for the Tax Parcel by the amount of the Assessment that has been certified for collection with respect to such Tax Parcel.

(D) The amount of all prepayments made pursuant to this Section 3.07 shall be final. The City shall not be required to refund any portion of a prepayment if (1) the Capital Cost or Project Cost of the Project is less than the amount upon which such Adjusted Prepayment Amount was computed, (2) the Adjusted Prepayment Amount is reduced upon issuance of the Permanent Original Obligations, or (3) the annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

(E) Collection by the City of mandatory prepayments pursuant to this Section 3.07 is supplemental and in addition to any other legally available remedy the City may seek for repayment of the Assessments.

SECTION 3.08. REALLOCATION UPON FUTURE SUBDIVISION. If a Tax Parcel is subsequently divided into more than one Tax Parcel, the Assessment imposed against such Tax Parcel may be reallocated among subsequently created Tax Parcels upon (1) application of the owner and (2) assignment of a distinct ad valorem property tax identification number to each Tax Parcel by the Property Appraiser. However, no portion of the Assessment may be allocated to property proposed for dedication to the public or to common use of subdivided parcels.

SECTION 3.09. VACANT PROPERTY OPTION.

(A) Optional Declaration of Unity of Title. Any person owning a Residential Parcel containing Vacant Property consisting of two or more Lots may elect to execute and file with the City a Declaration of Unity of Title so that such property will be considered one Lot for purposes of the Assessment.

(B) Effect. Execution and recording of a Declaration of Unity of Title by a property owner allows that owner's property to be considered as one unified Lot for purposes of the Assessment and restricts the property owner's ability to sell or transfer less than the entire parcel to another person or entity without obtaining a release of the Declaration of Unity of Title. The subject property may include two (2) or more contiguous Platted Lots or it may be one Parcel of Record that the owner does not intend to fully or further develop. For purposes of this Section, "contiguous" means a Lot that is directly

adjacent to and shares a boundary with another Lot. Lots separated by a roadway or platted right-of-way are not considered to be "contiguous." A person owning a Residential Parcel consisting of more than two (2) Lots may elect to file a Declaration of Unity of Title on some or all of such Lots.

(C) Approval Procedure. Declarations of Unity of Title shall be submitted on forms provided by the City. All Declarations of Unity of Title must be filed with the City on or before October 15, 2018. The City shall evaluate the Declaration of Unity of Title for completeness and ensure that the property is eligible pursuant to the standards established herein. After approval by the City, the property owner will be responsible for recording the Declaration of Unity of Title in the Public Records of Brevard County at the property owner's expense.

(D) Release of Declaration of Unity of Title. The City Manager, or his/her designee, may, in their sole discretion, release a property encumbered by a Declaration of Unity of Title. If released, the property owner shall pay all unpaid Assessments for the Project (based upon the number of EAUs assigned to the Residential Parcel prior to filing of the Declaration of Unity of Title), plus reasonable fees and costs incurred by the City. When a release of a Declaration of Unity of Title is approved, the property owner will be provided with a release executed by the City Manager or his/her designee and the property owner will be responsible for recording the Release in the Public Records of Brevard County prior to conveying any portion of the unified parcel.

**ARTICLE IV
GENERAL PROVISIONS**

SECTION 4.01. **METHOD OF COLLECTION.** The Assessments shall be collected pursuant to the Uniform Assessment Collection Act; provided however, that any Assessment against Government Property or against Separately Billed Property shall be collected pursuant to Section 56.44(B) of the Ordinance.

SECTION 4.02. **SEVERABILITY.** If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 4.03. **INTENT FOR REIMBURSEMENT FROM BOND PROCEEDS.** The City is hereby authorized to temporarily advance funds from available utility revenue funds for the payment of the Capital Cost of the Project, such advances to be reimbursed from proceeds of tax-exempt Obligations. This is a Declaration of Official Intent under U.S. Treasury Regulations for purposes of Sections 103 and 141 to 150 of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"). The City declares that it reasonably expects that the Capital Cost for the Project will be reimbursed with the proceeds of bonds (as defined in Section 150 of the Internal Revenue Code). The maximum principal amount of bonds expected to be issued for the Capital Cost of the Project is \$8,108,109.

SECTION 4.04. **EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

This resolution was duly enacted at Meeting No. 2018-_____, of the City Council of the City of Palm Bay, Brevard County, Florida, held on _____, 2018.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

APPROVED FOR FORM AND
CORRECTNESS:

Patricia D. Smith, CITY ATTORNEY

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

To Be Published on or before August 16, 2018

NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SPECIAL ASSESSMENTS

[INSERT MAP OF ASSESSMENT AREA]

Notice is hereby given that the City Council of the City of Palm Bay, Florida, will conduct a public hearing to consider creation of the Port Malabar Unit 32 Road Improvement Project Municipal Service Benefit Unit "Assessment Area"), as shown above, and to impose special assessments against certain parcels of property located therein for the fiscal year beginning on October 1, 2018 and future fiscal years to fund the design, acquisition, installation, and construction of the Port Malabar Unit 32 Road Improvement Project. The hearing will be held on September 6, 2018 in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, at 7:00 p.m., or as soon thereafter as the item can be heard, for the purpose of receiving public comment on the proposed Assessment Area, the assessments, and their collection.

The Assessments have been proposed to fund the Port Malabar Unit 32 Road Improvement Project that will provide for adequate and reliable ingress and egress to properties located within the proposed Assessment Area. The Project will consist of comprehensive road paving, surfacing, resurfacing and other related facilities and improvements, including related stormwater improvements. The assessment for each parcel of property will be based upon the number of equivalent assessment units (EAUs) attributable to such parcel based on the property's use and the number of buildable lots for residential property and the amount of land area for non-residential property. A more specific description is set forth in the Initial Assessment Resolution adopted by the City Council on August 2, 2018. Copies of the Initial Assessment Resolution and the preliminary assessment roll are available for inspection at the City Clerk's Office, City Council of Palm Bay, 120 Malabar Road SE, Palm Bay, Florida 32907. Copies of the plans and specifications for the Port Malabar Unit 32 Road Improvement Project are available for inspection at the Utilities Department, 120 Malabar Road SE, Palm Bay, Florida.

The proposed maximum annual assessment is \$365 per EAU. The assessments for most properties will be collected on the ad valorem tax bill, as authorized by Section 197.3632, Florida Statutes. However, the assessments for Government Property and for Separately Billed Properties, as defined in the Initial Assessment Resolution, will be collected by separate bill for the initial fiscal year. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. The City Council intends to collect the assessments in fifteen (15) annual assessments,

the first of which will be included on the ad valorem tax bill to be mailed in November 2018.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk at (321) 952-3414 at least 48 hours prior to the date of the hearing. If hearing impaired, telephone the Florida Relay Service Numbers, 711, for assistance.

All affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If a person wishes to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

If you have any questions, please contact the City's Utilities Department at (941)_____.

CITY OF PALM BAY, FLORIDA

APPENDIX B

FORM OF NOTICE TO BE MAILED

City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907
[, Director]
Phone:

[Property Owner Name]
[Street Address]
[City, State and zip]

PALM BAY, FLORIDA

NOTICE OF PUBLIC HEARING FOR
PORT MALABAR UNIT 32 ROAD
IMPROVEMENT ASSESSMENTS

NOTICE DATE: AUGUST 16, 2018

*****NOTICE TO PROPERTY OWNER*****

Re: Parcel ID Number [Insert Number]
Port Malabar Unit 32 Road Improvement Project

Dear Property Owner:

An assessment area is being created by the City of Palm Bay to fund road improvements within Port Malabar Unit 32 in order to provide adequate ingress and egress to properties located therein. The cost of these improvements will be funded by assessments against the property to be served. The road improvement project will consist of comprehensive road paving, surfacing, resurfacing and other related facilities and improvements, including related stormwater improvements. The assessment for each parcel of property will be based upon the number of equivalent assessment units (EAUs) attributable to such parcel based on the property's use and the number of buildable lots for residential property and the amount of land area for non-residential property.

A more specific description of the assessment program is set forth in the Initial Assessment Resolution adopted by the City Council on August 2, 2018. Copies of the Initial Assessment Resolution, the plans and specifications for the road improvements, and the preliminary assessment roll are available for your review at the City Clerk's Office, City Council of Palm Bay, 120 Malabar Road SE, Palm Bay, Florida 32907. Information regarding the assessment for your specific property, including the number of EAUs, is attached to this letter.

Property owners who have two or more contiguous platted lots or unplatted parcels assigned two or more buildable lots may execute a Declaration of Unity of Title, that allows a property owner's real property to be considered as one unified lot or parcel for the purpose of the assessment program. After filing a valid Unity of Title, you would pay the reduced EAU allocation; however, the execution of the Unity of Title will restrict your ability to develop or transfer less than the entire parcel to another person or entity without

obtaining a release of the Declaration of Unity of Title from the City, but there is no obligation for the City to grant this release nor any guarantee that your request will be granted. If your property is eligible for the Unity of Title, please contact the City _____ at _____ to obtain information on filing a Declaration of Unity of Title. Execution of the Unity of Title will be due to the City by October 15, 2018 to be effective. Property owners should consult with an attorney prior to executing a Declaration of Unity of Title.

The City intends to finance this assessment project; this will permit the cost attributable to your property to be amortized over a period of fifteen (15) years. The annual assessment will include your share of the principal, interest and collection and administrative costs. The maximum annual assessment is estimated to be \$365 per EAU. The City intends to include annual assessments on your ad valorem tax bill the first of which will be included on the ad valorem tax bill to be mailed in November 2018. However, you may choose to prepay your assessment in full and avoid payment on the ad valorem tax bill. Please do not send payment now. If the assessments are imposed, you will receive a separate notice of the amount, due date and place for payment.

Failure to pay your assessments appearing on the ad valorem tax bill will cause a tax certificate to be issued against the property which may result in a loss of title. The City intends to collect up to \$11,502,975 in assessment revenues depending on participating tax parcels, over the next fifteen (15) years for this project.

The City Council will hold a public hearing at 7:00 p.m., or as soon thereafter as the matter can be heard, on September 6, 2018 in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of receiving comments on the proposed assessments, including collection on the ad valorem tax bill. You are invited to attend and participate in the public hearing or to file written objections with the City Council prior to or during the hearing. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the City Clerk at (321) 952-3414 at least 48 hours prior to the date of the hearing. If hearing impaired, telephone the Florida Relay Service Numbers, 711, for assistance.

If there is a mistake on this notice it will be corrected. If you have any questions regarding the number of EAUs assigned to your property or the amount of the assessment, please contact the _____ by telephone at _____, or by email at _____.

* * * * * **SEND NO MONEY NOW. THIS IS NOT AN INVOICE** * * * * *

PORT MALABAR UNIT 32 ROAD IMPROVEMENT ASSESSMENT AREA

[Property Owner Name]
Parcel ID Number [Insert Number]

ASSIGNED ASSESSMENT UNITS

Property Use: [Residential, Inst. or
Comm.]

Total Lots assigned to the property: [number or NA if Non]

Total Land Area assigned to the property: [number or NA if Res]

Total number of EAUs attributed to property: [Insert Number]

PREPAYMENT AND ANNUAL ASSESSMENTS

Initial prepayment amount (excludes
permanent financing cost): [Insert Amount]

Number of annual payments: not to exceed 15

Maximum annual assessment: [Insert Amount]

Expected date of first bill: November 2018

Expected date of last bill: November 2032

* * * * * **SEND NO MONEY NOW. THIS IS NOT AN INVOICE** * * * * *

APPENDIX C

DESCRIPTION OF TAX PARCELS LOCATED IN THE PORT MALABAR UNIT 32 ROAD IMPROVEMENT PROJECT ASSESSMENT AREA



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager

DATE: August 2, 2018

RE: Unit 32 Water Initial Assessment Resolution

A handwritten signature in blue ink, appearing to read "Gregg Lynk".

The Utilities Department is requesting the adoption of the Unit 32 Water Initial Assessment Resolution. The revenue derived from the assessment will be used to make City water service available to parcels in Unit 32. The assessment insures an equitable and efficient method of allocating and apportioning water service costs among benefited properties.

REQUESTING DEPARTMENTS:

Public Works Department, Utilities Department, City Attorney's Office, City Manager's Office

FISCAL IMPACT:

The Brevard County Tax Collection office can place up to a 2% fee for processing our Stormwater Utility service fees.

RECOMMENDATION:

Motion to approve the Unit 32 Water Initial Assessment Resolution.

Attachments: 1) Stantec Final Report
 2) Copy of Unit 32 Water Initial Assessment Resolution



City of Palm Bay, FL

Unit 32 Water Assessment – 3rd Revised Final Report

July 27, 2018





July 27, 2018

Mr. Edward Fontanin, P.E.
City of Palm Bay
Utilities Director
250 Osmosis Drive
Palm Bay, FL 32909

Re: Unit 32 Water Assessment
– Revised Final Report

Dear Mr. Fontanin

Stantec is pleased to present this Final Report of the Unit 32 Water Assessment that we have performed for the City of Palm Bay (The City).

We appreciate the fine assistance provided by you and all of the members of City staff who participated in the analysis.

If you or others at the City have any questions, please do not hesitate to call me at (904) 923-1466 or email me at michael.burton@stantec.com. We appreciate the opportunity to be of service to the City and look forward to working with you again in the near future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Burton".

Michael Burton
Vice President

200 Business Park Circle, Suite 101
St. Augustine, FL 32095
michael.burton@stantec.com

Enclosure

TABLE OF CONTENTS

| | |
|---|-----------|
| 1. Introduction..... | 2 |
| 1.1 Study Objective & Procedure..... | 2 |
| 2. Project Description..... | 3 |
| 2.1 Assessment Area..... | 3 |
| 2.2 Project Costs of Proposed Improvements | 3 |
| 3. Special Assessment Methodology..... | 5 |
| 3.1 Florida Law Governing Special Assessments | 5 |
| 4. Assessment Calculation | 10 |
| 4.1 Net Revenue Requirement | 10 |
| 4.2 Property Data and Assessment Units..... | 11 |
| 4.3 Assessment Rate Calculation | 11 |

1. INTRODUCTION

Stantec Consulting Services Inc. has conducted a Non-Ad Valorem Assessment Study (Study) to develop a Non-Ad Valorem Assessment for the City of Palm Bay (the City) to fund capital improvements to extend water service (Water Assessment Program) to and within Port Malabar Unit 32 (Unit 32) and several connecting areas bordering Unit 32 (Assessment Area) within the City. This report presents the objectives, approach, methodologies, source data, assumptions, as well as the findings and recommendations of the Study.

Pursuant to Section 6.02 of the City Charter, the City has the authority to impose special assessments for the construction, reconstruction, repair and related maintenance of all water mains and water laterals. As such, the City desires to create a Water Assessment Program that would recover the full capital costs to provide potable water to the Assessment Area. The methodology utilized within this study relies upon current property and cost data to create a fair and equitable assessment.

1.1 STUDY OBJECTIVE & PROCEDURE

The objective of this Study is to calculate a non-ad valorem assessment program that will recover the full capital cost requirements of making potable water available to properties within the Assessment Area. The costs associated with these improvements must be recovered in proportion to the benefit received from these services provided by the City.

The Study first identifies the recommended improvements as provided by the City and their associated cost requirements, recognizing the high level of service traditionally provided by the City.

The revenue requirement was then apportioned to vacant and improved residential and non-residential property classes based upon property data obtained from the Brevard County Property Appraiser's Office (Property Appraiser) and Graphical Information System (GIS) data provided by the City. Once the allocations were complete, Assessment rates were developed, the results of which are presented herein.

2. PROJECT DESCRIPTION

2.1 ASSESSMENT AREA

The Assessment Area consists of 1,876 parcels within Unit 32 and 25 parcels outside of the boundary of Unit 32 fronting the north side of Gates Rd. between Happiness Avenue and LaBelle Avenue, on Almeria Lane, and along the western border of Unit 32 along Garvey Road as recorded by the Property Appraiser and reviewed by the City. Appendix A provides a map of the Assessment Area indicating the location of the project and proposed potable water improvements.

2.2 PROJECT COSTS OF PROPOSED IMPROVEMENTS

The City has defined the project and identified the probable costs for the installation of potable water improvements throughout the Assessment Area.

Project Description

The water extension project consists of potable water improvements to provide service to the Assessment Area. The City will install 14,239 linear feet of 8" PVC and 94,380 linear ft of 6" PVC potable water distribution mains and facilities within the public rights-of-way, and road/sidewalk/driveway repairs within the Assessment Area.

Probable Costs

Probable costs for these improvements are shown in Table 1. The City's proposed financing plan for the project consists of the issuance of a debt instrument to be issued and repaid through this Assessment.

Table 1 – Unit 32 Water Assessment Probable Costs

| Description | Water Improvements |
|---|---------------------------|
| Cost | \$7,518,135 |
| Mobilization and Permitting | \$563,860 |
| Contingency | \$751,814 |
| Construction Subtotal | \$8,833,809 |
| Administration | \$265,014 |
| Construction Engineering and Inspection | \$132,507 |
| | |
| Total | \$9,231,330 |

3. SPECIAL ASSESSMENT METHODOLOGY

The development of a non-ad valorem assessment to fund potable water improvements requires that the improvements for which properties are to be assessed confer a special benefit upon the property burdened by the special assessment. Simply stated, there must be a logical relationship between the services and facilities provided and the benefit to real property assessed.

In addition to the special benefit requirement, the costs associated with providing the services and facilities must be reasonably apportioned to the properties that receive a benefit from the improvements in proportion to the benefit received. Therefore, the recommended assessments calculated in this study were developed such that the costs incurred by the City in providing potable water service will be recovered through assessments to properties in proportion to the benefit received by the availability of potable water to all properties within the Assessment Area.

This section describes the assessment methodology used to develop the Water Assessment. The first sub-section discusses relevant Florida Law regarding special non-ad valorem assessments, followed by sections discussing how Florida Law has been applied to the determination of special benefit and the apportionment of revenue requirements of the assessment to benefitting properties.

3.1 FLORIDA LAW GOVERNING SPECIAL ASSESSMENTS

This section discusses relevant Florida Law regarding special non-ad valorem assessments as it relates to the proposed Water Assessment. The discussion covers how Florida law relates to special benefit.

Special assessments are a revenue source available to local governments in Florida to fund operations and maintenance expenses and capital improvements for essential services such as roads, drainage, fire protection services, utilities, etc.

Pursuant to Florida case law, two requirements must be satisfied for the imposition of a valid non-ad valorem special assessment. These two requirements have become known as the two-pronged test. They are 1) the property assessed must derive a special benefit from the services or assets provided, and 2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.

In considering special benefit, the following question must be considered: “Can a special benefit be derived from the improvements by all properties within the Assessment Area to meet the first prong of the two-pronged test, even if all properties are not yet improved?”. The answer is yes, based in part upon the Florida Supreme Court determination in Meyer v. City of Oakland Park where the Court upheld a sewer assessment on both improved and unimproved property, stating that the benefit need

not be direct or immediate but must be substantial, certain and capable of being realized within a reasonable time¹. Water and sewer line extensions were also found to provide a special benefit in Murphy v. City of Port St. Lucie². In City of Hallandale v. Meekins³ the Court indicated that the proper measure of benefits accruing to property from the assessed improvement was not limited to the existing use of the property but extended to any future use which could reasonably be made.

It is well settled under Florida law that local governments are afforded great latitude regarding legislative determinations of special benefit and reasonable apportionment of costs. Specifically, the Florida Supreme Court has held that in cases where valid alternative methods of apportionment exist, the legislative body's determination should be upheld, unless that determination was arbitrary, and a court should not substitute its judgment for that of the local legislative body. In City of Boca Raton v. State of Florida⁴ the Florida Supreme Court stated that the apportionment of benefits is a legislative function, and if reasonable persons may differ as to whether the land assessed was benefitted by the local improvement, the findings of the City officials must be sustained. Further, in City of Boca Raton v. State of Florida the Florida Supreme Court also determined that the manner of the assessment is immaterial and may vary within the City, if the amount of the assessment for each tract is not in excess of the proportional benefits as compared to other assessments on other tracts. A local government can assign to each property, which is subject to the assessment, a different category designation with each category having a different assessment rate.⁵

Special Benefit – The First Prong of the Two-Pronged Test

All tax parcels, developed and undeveloped, are benefited by the mere availability of potable water infrastructure. Such benefit is independent of whether the property is developed or not. The benefits include:

- Continuous access to clean drinking water.
- Enhanced fire protection.
- Enhanced property and rental value, marketability of and/or ability to develop property.
- Increased use and enjoyment of the parcel derived from continual and immediately available potable water availability.

¹ Meyer v. City of Oakland Park, 219 So.2d 417 (Fla. 1969)

² Murphy v. City of Port St. Lucie, 666 So.2d 879 (Fla. 1995)

³ City of Hallandale v. Meekins, 237 So.2d 318 (Fla. 4th DCA 1970), aff'd, 245 So.2d 253 (Fla 1971)

⁴ City of Boca Raton v. State of Florida, 595 So.2d 25 (1992)

⁵ Workman Enterprises, Inc. v. Hernando County, 790 So.2d 598 (Fla. 5th DCA 2001); Desiderio Corp. v. City of Boynton Beach, 39 So. 3d 487, 498 (Fla. 4th DCA 2010)

- Enhanced marketability and value of the parcel when compared to a similarly situated parcel for which potable water service is not available.
- Protection of the health and safety of the owners and occupants of assessed Tax Parcels.

The mere availability of potable water benefits each parcel because each property owner will have access to potable water on their parcel whether already developed or currently undeveloped but with the potential to be developed in the future.

Therefore, the first prong of the two-pronged test (the property burdened by the assessment must derive a special benefit from the service provided by the assessment) is met because each parcel will receive a special benefit from the availability of potable water provided by the City.

Fair and Reasonable Apportionment – The Second Prong of the Two-Pronged Test

In considering the assessment methodology, the second prong of the two-pronged test requires that the costs of the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit. In this Study we have developed an apportionment methodology based upon the availability of potable water to all parcels that will have potable water service available to them because of the water extension project, improved and un-improved.

Apportionment of Benefits to Properties

Our analysis of the Assessment Area is based upon an Equivalent Assessment Unit (EAU) which was determined by an evaluation of the parcels within the Assessment Area and their current and potential property use based upon the allowable development for their zoning category under the City's Land Development Code. Properties within the Assessment Area (which includes all parcels that will receive a special benefit from the proposed improvements described herein) were classified as either (1) Non-Residential or (2) Residential based upon the property type and use code description. Parcels who already have access to potable water services within Unit 32 have been identified by the City and excluded from this Assessment Program. For purposes of this Assessment Program a Residential EAU was determined to reflect a level of service of 225 gallons per day (gpd)⁶ per single-family dwelling unit, which represents the approximate water demand of the typical single-family lot within the Assessment Area. A Non-Residential EAU was determined to be equal to 1,500 gpd per acre, or 6.66667 EAUs as provided by City of Palm Bay Utilities.

- Non-Residential zoned parcels (Zoning Classification IU and NC):
 - Non-Residential properties were apportioned based upon the acreage of the parcel and 1,500 gallons per day per acre which is equivalent to 6.66667 EAUs per acre.
- Residential zoned parcels (Zoning Classifications RS-2, SRE, RS-1, RE, and RR):

⁶ Per Palm Bay Utilities' Water Master Plan dated, October, 2017.

- Developed residential parcels were assigned one dwelling unit per platted lot and apportioned one EAU equal to 225 gpd per dwelling unit. In circumstances where a parcel consists of two or more lots, a visual analysis was performed to determine the potential future development capability of said parcel in terms of buildable dwelling units. In these instances, the determined development potential was determined to be no greater than the maximum allowable density based upon their zoning classification in the City's LDC.
- Undeveloped platted residential parcels were assigned the number of benefitting dwelling units based on the number of platted lots within the parcel and apportioned one EAU equal to 225 gpd per dwelling unit.
- Undeveloped unplatted residential parcels were assigned the number of benefitting dwelling units based on the acreage that their LDC zoning classification allows and apportioned one EAU equal to 225 gpd per dwelling unit.
 - Zoning Classification RS – 2: minimum lot size = 7,500 square feet or approximately 0.17 acres (i.e. maximum allowable density for a 1 acre parcel is 5 single-family lots)
 - Zoning Classification SRE: minimum lot size = 8,000 square feet or approximately 0.18 acres (i.e. maximum allowable density for a 1 acre parcel is 5 single-family lots)
 - Zoning Classification RS – 1: minimum lot size = 8,000 square feet or approximately 0.18 acres (i.e. maximum allowable density for a 1 acre parcel is 5 single-family lots)
 - Zoning Classification RE: minimum lot size = 12,000 square feet or approximately 0.28 acres (i.e. maximum allowable density for a 1 acre parcel is 3 single-family lots)
 - Zoning Classification RR: minimum lot size = 1 acre (i.e. maximum allowable density for a 1 acre parcel is 1 single-family lot)

Discussion of the Apportionment Methodology

The methodology is a benefit-based approach, which is the legal requirement for a non-ad valorem assessment and focuses on benefit to the property based upon the availability of potable water service which is an appropriate matching of benefit received and recognizes the benefit to all properties regardless of whether or not potable water service is actually yet used by any class of properties or individual properties. This methodology recognizes two important facts:

- First and foremost, the potable water improvements to be made by the City will be ready and available to property within the Assessment Area.

- The projects to be funded from this assessment result in potable water improvements that are “local” or primarily exist for the purpose of providing access to potable water by these parcels for the benefit property owners.

Therefore, the second prong of the two-pronged test is met by the recommended fair apportionment of costs based upon benefit embodied in this cost apportionment approach.

4. ASSESSMENT CALCULATION

This section presents the results of the Assessment calculations and our recommendations based upon those results.

4.1 NET REVENUE REQUIREMENT

The Net Revenue Requirement (NRR) will be the basis for the Assessment calculations. The projection of costs is used to identify the assessment rates necessary to fully fund the improvements and associated annual debt service payments (the Maximum Assessment Rate). The NRR and projected costs are based upon the proposed project costs as provided by the City at the time of this analysis.

Projection of the Net Revenue Requirement

To calculate the NRR, the probable costs were developed by City Staff. In addition, associated legal and consulting fees related to the development and implementation of this Assessment were included. The projection of the NRR for each option is presented in Table 2 while Table 3 summarizes the sources and uses of funds. The financing terms are assumed to include the following and are based upon the assumption that the debt issued will be in the form of a revenue bond⁷:

- Term of 20 years consisting of 40 semi-annual interest payments
- Interest rate equal to 4.0%
- Debt service reserve fund equal to one year of debt service
- Costs of issuance equal to 2% of the par amount

The NRR is the 100% Cost Recovery for the assessments calculated herein.

Table 2 – Net Revenue Requirement Calculation

| | |
|-------------------------------|---------------------|
| Water Capital Costs | \$ 9,231,330 |
| Consulting Fees | \$ 15,994 |
| Legal Fees | \$ 80,000 |
| Total Capital Costs | \$ 9,327,324 |
| Cost Recovery | 100% |
| Adjusted Capital Costs | \$ 9,327,324 |

⁷ Financing terms are based upon assumptions as stated herein and will be finalized when debt issuance occurs.

Table 3 – Sources and Uses

| | | | |
|----------------------|------|-----------|-------------------|
| Proceeds | | \$ | 9,327,324 |
| Cost of Issuance | 2.0% | \$ | 205,806 |
| Debt Service Reserve | | \$ | 757,179 |
| Par Amount | | \$ | 10,290,309 |

4.2 PROPERTY DATA AND ASSESSMENT UNITS

The basis for creating the Assessment calculations and associated assessment roll is the parcel database as provided by the Property Appraiser. The property database includes 1,876 parcels within Unit 32 and an additional 25 parcels located outside of Unit 32 that are included in the Assessment Area as receiving benefit. Each parcel was assigned a number of EAUs for purposes of the assessment calculations based upon the type of property, acreage, and other factors as described herein.

Exempt and Excluded Properties

There is a distinction between exempt and excluded parcels. Certain tax parcels are exempt by State statutes or case law from non-ad valorem assessments such as this Assessment even those that benefit. Such exempt parcels are included in the cost apportionment but will not be billed an assessment. The unrecovered revenue will be funded through other City general revenues. To identify the exempt parcels, the use codes assigned to each property by the Property Appraiser were utilized.

Parcels that are excluded from this assessment because they receive no benefit from water improvements, are lake bottoms, marshes, and other property types that will likely never develop. The excluded properties are identified by the property use codes contained in the Property Appraiser's database.

This study has assumed the required exemptions for City, County, State, and Federal properties. For purposes of this assessment it is assumed that the City will not impose any elective exemptions for properties coded as Not-for-profit in the Property Appraiser's database.

In addition, 204 parcels within the Assessment Area who either already have access to potable water service through improvements previously made by the City or that will otherwise not be benefitted from the Assessment Program have been excluded from this Assessment.

4.3 ASSESSMENT RATE CALCULATION

Identification of Assessment Units

The following steps were taken to populate assessment units for the assessment rate calculations:

1. All parcels identified as not receiving any benefit (either due to property use type or already have access to potable water service) from the proposed improvements were excluded from the EAU calculation.

2. All remaining parcels exempt or otherwise located within the Assessment Area were identified by the full parcel database and were included in the determination of the number of EAU's to be included for each parcel and in total.

Table 4 presents the total parcels within the Assessment Area and provides the excluded parcels (not benefitted or otherwise excluded), exempt parcels, and determination of total EAU's within the Assessment Area by their corresponding use code and LDC zoning classification.

Table 4 – Equivalent Assessment Units

| Code | UseCodeDesc | Exempt | Total Parcels | Not Benefitted Parcels | Benefitting Parcels | Assessment Methodology | (Less: Excluded) Apportioned EAUs | (Less:Exempt) Billed EAUs |
|------|--|--------|------------------|------------------------------|------------------------|---------------------------|---|------------------------------|
| 7100 | C-CHURCH | N | 1 | 1 | - | Acreage | - | - |
| 8910 | C-MUNICIPALLY OWNED LAND - IMPROVED (THAT DOES NOT QUALIFY IN ANOTHER I | Y | 1 | 1 | - | Acreage | - | - |
| 1000 | C-VACANT COMMERCIAL LAND | N | 2 | 2 | - | Acreage | - | - |
| 7000 | C-VACANT LAND - INSTITUTIONAL | N | 1 | - | 1 | Acreage | 9 | 9 |
| 8080 | C-VACANT MUNICIPALLY OWNED LAND - (THAT DOES NOT QUALIFY IN ANOTHER C | Y | 5 | - | 5 | Acreage | 142 | - |
| 164 | R-RESIDENTIAL IMPROVEMENT NOT SUITABLE FOR OCCUPANCY | N | - | - | - | N/A | - | - |
| 132 | R-RESIDENTIAL RELATED AMENITIES | N | 2 | 2 | - | N/A | - | - |
| 113 | R-SINGLE FAMILY - MODULAR | N | 2 | 1 | 1 | DU | 1 | 1 |
| 110 | R-SINGLE FAMILY RESIDENCE | N | 481 | 76 | 405 | DU | 455 | 455 |
| 819 | R-TWO RESIDENTIAL UNITS - NOT ATTACHED | N | 1 | - | 1 | DU | 2 | 2 |
| 10 | R-VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | N | 1,396 | 119 | 1,277 | DU | 1,423 | 1,423 |
| 9 | R-VACANT RESIDENTIAL LAND (SINGLE FAMILY, UNPLATTED) - LESS THAN 5 ACRES | N | 1 | 1 | - | Acreage | - | - |
| 9600 | C-WASTE LAND | N | 1 | 1 | - | N/A | - | - |
| 9909 | R-VACANT RESIDENTIAL LAND (SINGLE-FAMILY, UNPLATTED) - 5 ACRES OR MORE | N | 7 | - | 7 | Acreage | 381 | 381 |
| | | | 1,901 | 204 | 1,697 | - | 2,414 | 2,272 |

| Land Development Code Zoning Classification | | Total Parcels | Not Benefitted Parcels | Benefitting Parcels | (Less: Excluded) Apportioned EAUs | (Less:Exempt) Billed EAUs |
|---|--|------------------|------------------------------|------------------------|---|------------------------------|
| IU | IU - Institutional Use District | 2 | 1 | 1 | 9 | 9 |
| NC | NC Neighborhood Commercial District | 2 | 2 | - | - | - |
| RR | RR - Rural Residential District | 27 | 3 | 24 | 96 | 96 |
| RS-2 | RS-2 - Single-family Residential District | 1,867 | 198 | 1,669 | 2,039 | 1,896 |
| RE | RE - Estate Residential District | 1 | - | 1 | 1 | 1 |
| RS-1 | RS-1 - Single-family Residential District | 1 | - | 1 | 70 | 70 |
| SRE | SRE - Suburban Residential Estate Category | 1 | - | 1 | 200 | 200 |
| | | 1,901 | 204 | 1,697 | 2,414 | 2,272 |

Unity of Title

Property owners of a parcel which consists of more than one lot/unit may elect to declare a “Unity of Title” which would voluntarily legally restrict or limit the use of additional lots/units within the parcel. For example, a parcel with three combined lots may make a declaration of “Unity of Title” on either one or two of the lots/units, therefore, reducing the assigned EAUs and amount of assessment, but also limiting the ability of the property owner to further develop said parcel beyond the lots/units declared in the unity of title declaration.

As such, for purposes of calculating a maximum assessment rate, assumptions have been made herein regarding assumed “Unity of Title” declarations that may be made by affected property owners. The assumptions made are that all parcels with 5 or fewer lots/units will elect a unity of title to one lot/unit, and all parcels with greater than 5 units will elect a unity of title to one half of the original lots/units. Therefore, the assessments presented herein represent a reasonable maximum assessment amount and to the extent that fewer parcels make a unity-of-title election, the final assessments will be less than presented here.

Full Cost Recovery Rate Calculation

Property owners have two options for payment of the assessment; 1) prepay their apportioned costs, or 2) make annual assessment payments over 20 years. To calculate the full cost recovery assessments, we utilized the apportioned costs and total assessable units per property classification as identified in the previous sub-sections of this report. While the full cost is apportioned to all non-excluded properties, exempted property is included in the apportionment but will not be billed/assessed. The costs were divided by the number of EAUs identified to compute the Assessment per EAU as shown in Table 5.

Table 5 – Full Cost Recovery ⁸

| Unit 32 Pre-Payment Assessment Calculation | | |
|---|----|-----------|
| Adjusted Capital Costs | \$ | 9,327,324 |
| Assessment Units | | 1,992 |
| Pre-payment Assessment per Unit | \$ | 4,682 |

Property owners have the option to pay their apportioned costs for the project as shown in Table 5 or to pay the assessment through the non-ad-valorem assessment portion of their Brevard County property taxes. In this case, certain costs are borne related to the acquisition of debt financing to pay for the project and the administration of the annual assessment including:

- Costs related to the issuance of debt and associated interest,

⁸ EAUs adjusted based upon assumed “Unity of Title” declarations.

- Collection costs of 5% for administration, billing, collection, and a non-collection contingency,
- Statutory discount of 4% for early payments of Brevard County taxes.

Table 6 presents the estimated annual assessment at full cost recovery for the assessment.

Table 6 – Annual Assessment⁹

| Unit 32 Annual Assessment Calculation | | | |
|--|-----------------|-------------|-------------------|
| Proceeds | | \$ | 9,327,324 |
| Cost of Issuance | 2.0% | \$ | 205,806 |
| Debt Service Reserve | | \$ | 757,179 |
| Par Amount | | \$ | 10,290,309 |
| | Interest | Term | |
| | 4.0% | 20 | |
| Annual Debt Service Component | | \$ | 757,179 |
| Collection Cost Component | 5.0% | \$ | 37,859 |
| Statutory Discount Amount | 4.0% | \$ | 30,287 |
| Total Annual Project Costs | | \$ | 795,038 |
| Assessment Units | | | 1,992 |
| Annual Assessment per Unit | | \$ | 399 |

Assessment Roll

The complete assessment roll will be provided to the City electronically.

⁹ EAU's adjusted based upon assumed "Unity of Title" declarations.

Disclaimer

This document was produced by Stantec Consulting Services, Inc. ("Stantec") for the City of Palm Bay and is based on a specific scope agreed upon by both parties. Stantec's scope of work and services do not include serving as a "municipal advisor" for purposes of the registration requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission. Stantec is not advising the City of Palm Bay, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, terms, or other similar matters concerning such products or issuances.

In preparing this report, Stantec utilized information and data obtained from City of Palm Bay or public and/or industry sources. Stantec has relied on the information and data without independent verification, except only to the extent such verification is expressly described in this document. Any projections of future conditions presented in the document are not intended as predictions, as there may be differences between forecasted and actual results, and those differences may be material.

Additionally, the purpose of this document is to summarize Stantec's analysis and findings related to this project, and it is not intended to address all aspects that may surround the subject area. Therefore, this document may have limitations, assumptions, or reliances on data that are not readily apparent on the face of it. Moreover, the reader should understand that Stantec was called on to provide judgments on a variety of critical factors which are incapable of precise measurement. As such, the use of this document and its findings by City of Palm Bay should only occur after consultation with Stantec, and any use of this document and findings by any other person is done so entirely at their own risk.

RESOLUTION NO. 2018-32

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, RELATING TO THE CONSTRUCTION AND FUNDING OF THE PORT MALABAR UNIT 32 POTABLE WATER EXPANSION PROJECT WITHIN THE CITY OF PALM BAY; ESTABLISHING THE TERMS AND CONDITIONS OF PROPOSED SPECIAL ASSESSMENTS TO FUND THE PORT MALABAR UNIT 32 POTABLE WATER EXPANSION PROJECT; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED ASSESSMENTS AND THE METHOD OF THEIR COLLECTION; DIRECTING THE PROVISION OF NOTICE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF PALM BAY, FLORIDA, AS FOLLOWS:

ARTICLE I DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires.

"Adjusted Prepayment Amount" means (A) the amount required to prepay the Assessment for each Tax Parcel located within the City (1) following issuance of any Temporary Original Obligations as computed pursuant to Section 3.04(B) hereof and revised annually pursuant to Section 3.05(I) hereof, (2) following the issuance of the Permanent Original Obligations, as computed pursuant Section 3.04(C) hereof and revised annually pursuant to Section 3.05(I) hereof, and (3) following issuance of any Refunding Obligations, as computed pursuant to Section 3.04(D) hereof and revised annually pursuant to Section 3.05(I) hereof; and (B) the comparable prepayment amounts computed and revised for each Tax Parcel against which a special assessment has been imposed to finance other Local Improvements, if any, funded from proceeds of the Obligations.

"Annual Debt Service Component" means the amount computed for each Tax Parcel pursuant to Section 3.05(E) hereof.

"Annual Debt Service Factor" means the factor computed pursuant to Section 3.05(D) hereof.

"Assessment" means an annual special assessment imposed against property located within the Assessment Area to fund the Project Cost of the Port Malabar Unit 32 Potable Water Expansion Project to serve the Assessment Area and related expenses, computed in the manner described in Section 3.05 hereof.

"Assessment Period" means the time period estimated by the City during which Assessments are imposed for any portion of the Obligations that remain outstanding unless otherwise prepaid pursuant to Sections 3.06 or 3.07 hereof. The Assessment Period shall be 15 years.

"Assessment Roll" means a non-ad valorem assessment roll relating to the Project Cost of the Port Malabar Unit 32 Potable Water Expansion Project to serve the Assessment Area and related expenses.

"Building" means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes.

"Capital Cost" means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, and installation (including demolition, environmental mitigation and relocation) of the Project and imposition of the Assessments under generally accepted accounting principles; and including reimbursement to the City

for any funds advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

"City Manager" means the chief executive officer of the City, or such person's designee.

"Collection Cost" means all or any portion of the estimated cost to be incurred by the City during any Fiscal Year in connection with the collection of Assessments.

"Collection Cost Component" means the amount computed for each Tax Parcel pursuant to Section 3.05(F) hereof.

"Commercial Property" means a Tax Parcel zoned NC in accordance with the City's land development code as of the date of this Initial Assessment Resolution.

"Connection Fee" means, an equitable and proportionate charge made at the time wastewater service is newly provided to cover the growth related capital cost of construction for master pumping stations, transmission force mains, treatment, and effluent disposal facilities required to provide central wastewater treatment services to new wastewater connections, including the carrying costs of facilities built or acquired to serve current customers and held for use by future customers, as may be established by the City by ordinance or resolution.

"Council" means the City Council of Palm Bay, Florida.

"Debt Service Amount" means the amount computed pursuant to Section 3.05(A) hereof.

"Declaration of Unity of Title" means a condition, restriction, and limitation that a property owner of a Parcel of Record or two or more Platted Lots has voluntarily

imposed on said Platted Lots to legally condition, restrict, and limit the use of said Lots as a covenant running with the land so that such property will be considered one Lot for purposes of the Assessment. **"Dwelling Unit"** means a building, or a portion thereof, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only.

"EAU" or "Equivalent Assessment Unit" means the standard unit to be used in calculating the Assessments for the Project, as assigned for each Tax Parcel in accordance with Section 3.03 hereof based upon the property's expected potable water usage.

"Final Assessment Resolution" means the resolution described in Section 56.43(F) of the Ordinance that imposes Assessments within the Assessment Area.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the City.

"Funding Agreement" means the agreement pursuant to which the City agrees to deliver the Obligations against payment therefor by the purchaser or underwriter of such Obligations.

"Government Property" means property owned by the United States of America or any agency thereof, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

"Initial Prepayment Amount" means the amount computed pursuant Section 3.04(A) hereof for each Tax Parcel located within the Assessment Area.

"Institutional Property" means a Tax Parcel zoned IU in accordance with the City's land development code as of the date of this Initial Assessment Resolution.

"Land Area" means the total land area of each Non-Residential Parcel expressed in square feet as reflected in the Brevard County Property Appraiser's ad valorem tax roll database.

"Lot" means any of the Platted Lots or Parcels of Record within the Assessment Area on which a Dwelling Unit has been or can be constructed or sited in accordance with applicable laws and regulations, after giving effect to any (1) recorded Unity of Title, or (2) further legal, subdivision of any of the numbered lots or parcels as described in any deed or other muniment of title recorded in the public records of the City as of the date of the Final Assessment Resolution.

"Modified Debt Service Amount" means the amount computed pursuant to Section 3.05(C) hereof.

"Non-Residential Parcel" means Institutional Property and Commercial Property.

"Obligations" means Original Obligations or Refunding Obligations.

"Ordinance" means the Master Capital Project and Service Assessment Ordinance, adopted by the Council on May 4, 2017, as Ordinance No. 2017-35, and codified in Chapter 56 of the City of Palm Bay Code of Ordinances, as may be amended from time to time.

"Original Obligations" means Temporary Original Obligations and Permanent Original Obligations.

"Parcel of Record" means an unplatted parcel of record or a subdivided Platted Lot in existence on the effective date of this Resolution, on which one or more Dwelling Units has been or can be constructed or sited in accordance with the City's current land development regulations.

"Pass-Through Obligations" means internal loans between certain funds of the City used to initially finance Local Improvements and designated as such by the City, the repayment of which is secured, in whole or in part, by proceeds of the Assessments and which the City subsequently pledges the proceeds of the internal loans, in whole or in part, to a series of bonds or other evidence of indebtedness.

"Permanent Original Obligations" means notes, bonds or other evidence of indebtedness including, but not limited to, Pass-Through Obligations, secured by proceeds of the Assessments that are issued to refinance any Temporary Original Obligations and finance any remaining Project Costs.

"Platted Lot" means a platted building lot within the Assessment Area as of the date of the Final Assessment Resolution on which one (1) Dwelling Unit has been or can be constructed or sited in accordance with applicable laws and regulations.

"Port Malabar Unit 32 Potable Water Expansion Project Assessment Area" or **"Assessment Area"** means the properties that will be specially benefited by the Project, as more particularly described in Section 3.01 and Appendix C hereof.

"Prepayment Modification Factor" means the factor computed pursuant to Section 3.05(B) hereof.

"Proforma Obligations" means a proforma of the Permanent Original Obligations prepared by the City or its financial advisor utilizing the following assumptions: (A) the principal amount of the Permanent Original Obligations is sufficient to fund (1) the Project Cost of the Project, (2) payment of the estimated Transaction Cost for the Permanent Original Obligations, (3) amounts to be deposited in any reserve account established for the Permanent Original Obligations, and (4) any other amounts deemed necessary by the City or its financial advisor, related to the Project; (B) the Permanent Original Obligations are payable in substantially equal annual payments over the Assessment Period from their date of issuance; and (C) the Permanent Original Obligations bear interest at rates that, in the reasonable judgment of the City or its financial advisor (taking into consideration possible interest rate fluctuations between the date on which such proforma is prepared and the estimated date for issuance of the Permanent Original Obligations), may be available on the estimated issuance date for the Permanent Original Obligations.

"Project" or **"Port Malabar Unit 32 Potable Water Expansion Project"** means a "Local Improvement" as defined in the Ordinance and hereby more specifically described as the design, acquisition, construction, and installation of the pipes, mains, pumping stations, meters, and other capital improvements and facilities required for the City to provide central potable water service to all Tax Parcels located within the Assessment Area.

"Project Cost" means (A) the Capital Cost of the Project, (B) the Transaction Cost associated with the Obligations attributable to the Project, (C) interest accruing on such Obligations for such period of time as the City deems appropriate, (D) the debt service

reserve fund or account, if any, established for the Obligations attributable to the Project, and (E) any other costs or expenses related thereto.

"Refunding Obligations" means a series of bonds or other evidence of indebtedness issued by the City to refund all or any portion of the Permanent Original Obligations or any indebtedness issued to refinance the Permanent Original Obligations; provided, however, Refunding Obligations shall not include Pass-Through Obligations.

"Residential Parcel" means those Tax Parcels within the Assessment Area on which a Dwelling Unit has been or can be constructed or sited.

"Separately Billed Property" means properties that were not included in the geographic area described in Resolution No. 2017-63 adopted by the City on December 21, 2017, but that will be specially benefitted by the Project, are included within the Assessment Area, and upon which Assessments will be imposed and collected in accordance with Section 4.01 hereof.

"Statutory Discount Amount" means the amount computed for each Tax Parcel pursuant to Section 3.05(G) hereof.

"Tax Parcel" means a parcel of property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

"Tax Roll" means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"Temporary Original Obligations" means that portion of the loan or loans incurred by the City to (A) finance the Project Cost of the Project on an interim basis, and

(B) finance the payment of any Transaction Cost for the issuance of the Temporary Original Obligations.

"Transaction Cost" means the costs, fees and expenses incurred by the City in connection with the issuance and sale of any series of Obligations, including but not limited to (A) rating agency and other financing fees; (B) the fees and disbursements of bond counsel and disclosure counsel, if any; (C) the underwriters' discount; (D) the fees and disbursements of the City's financial advisor; (E) the costs of preparing and printing the Obligations, the preliminary official statement, the final official statement, and all other documentation supporting issuance of the Obligations; (F) the fees payable in respect of any municipal bond insurance policy; (G) administrative, development, credit review, and all other fees associated with any pooled commercial paper or similar interim financing program; and (H) any other costs of a similar nature incurred in connection with issuance of such Obligations.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

"Vacant Property" means Residential Parcels within the Assessment Area that contain one or more Lots that are not improved by a Dwelling Unit that will be serviced by the Project and have not received a Certificate of Occupancy for any Dwelling Unit on said unimproved Lots as of the Effective Date of this Resolution.

SECTION 1.02. **INTERPRETATION.** Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

SECTION 1.03. **LEGISLATIVE FINDINGS.** It is hereby ascertained, determined and declared that the Assessments provide a special benefit to property and are fairly and reasonably apportioned among all benefitted properties based upon the report prepared by Stantec, Inc., that is entitled "Unit 32 Water Assessment - Final Report," dated as of July, 2018 (the "Water Assessment Report"), which is hereby incorporated herein by reference, and the following legislative findings:

(A) Pursuant to Article VIII, section 2(b), Florida Constitution, sections 166.021 and 166.041, Florida Statutes, and the City of Palm Bay Home Rule Charter, the City has all powers of local self-government to perform municipal functions and render municipal services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of ordinances.

(B) The Council has enacted the Ordinance to provide for the creation of assessment areas and authorize the imposition of Assessments to fund the construction of Local Improvements to serve the property located therein.

(C) Pursuant to the City of Palm Bay Comprehensive Plan, the City is tasked with providing for an adequate potable water supply and needed public facilities and

services which meet current and future needs, maximizes existing facilities, protects the environment, and promotes orderly, compact urban growth.

(D) The Port Malabar Unit 32 Potable Water Expansion Project constitutes a Local Improvement as defined in the Ordinance, which permits the City to provide potable water services to properties located within the City. In order to provide potable water service to properties within the Assessment Area, it is necessary for the City to construct the Project.

(E) The Council desires to create the Assessment Area for the purpose of constructing the Project to serve approximately 1,901 Tax Parcels within the boundaries of the Assessment Area.

(F) The construction of the Project will provide a special benefit to the Tax Parcels located within the Assessment Area and will possess a logical relationship to the use and enjoyment of property by providing for: (1) access to central potable water service to the owners and occupants of property, which improves the utilization, marketability and development potential of said properties; (2) the protection and/or enhancement of property and rental values; and (3) the protection of the health and safety of the owners and occupants in use of the property.

(G) As further described in the Water Assessment Report, the rate of Assessment for the Project Cost of the Project for all Tax Parcels within the City shall be expressed in terms of "Equivalent Assessment Units" or "EAUs," which is a fair and reasonable method of apportionment because EAUs, as expressed based upon the number of Lots or Land Area pursuant to Section 3.01 hereof, are a reasonable proxy for

the amount of special benefit provided to the assessed properties by the Project based upon expected potable water usage.

(H) The Assessment Area consists primarily of Residential Parcels. Furthermore, the majority of Tax Parcels within the Assessment are Platted Lots, on which only one Dwelling Unit may be sited, pursuant to the City's current land development regulations. As further described in the Water Assessment Report, based upon historical water usage data obtained from the City's Utilities Department and information contained within the City of Palm Bay Comprehensive Plan, it was determined that the average Dwelling Unit within the Assessment Area utilizes approximately 225 gallons of potable water per day ("GPD"). Given that all such Dwelling Units should utilize a comparable amount of Potable Water, it is fair and reasonable to assign all such Platted Lots one (1.0) EAU regardless of minor variations in Platted Lot size.

(I) Some Tax Parcels within the Assessment Area contain Parcels of Record or multiple Platted Lots such that more than one Dwelling Unit may permissibly be sited thereon pursuant to the City's current land development regulations. In order to properly apportion the Project Costs to such Tax Parcels, it is fair and reasonable to assign EAUs to such Tax Parcels based on the maximum number of Lots that may be sited thereon based on the City's current land development regulations, as this represents the highest and best use of such properties. Additionally, property owners who own Parcels of Record or contiguous Platted Lots will have the option to execute a Declaration of Unity of Title whereby such property will be considered one Lot for purposes of the Assessment and assigned one (1) EAU.

(J) As further described in the Water Assessment Report, based upon historical water usage data obtained from the City's Utilities Department, the average one (1) acre Non-Residential Parcel within the Assessment Area can be expected to utilize approximately 1,500 GPD of potable water. Furthermore, the volume of potable water consumed by a Non-Residential Parcel when developed to its highest and best use can reasonably be expected to correlate with the property's Land Area because similarly zoned, larger Non-Residential Parcels have the potential for greater development, which is reasonably likely to result in greater potable water demands therefore. It is fair and reasonable to assign EAUs to Non-Residential Parcels based upon their average expected consumption of potable water, as expressed based upon its Land Area and its allowable uses. Because the average one (1) acre Non-Residential Parcel uses 1,500 GPD of potable water and the average Single Family Residential Unit utilizes 225 GPD, it is fair and reasonable to assign each Non-Residential Parcel within the Assessment Area 6.66 EAUs per acre of Land Area.

(K) It is fair and reasonable to treat Vacant Property in the same manner as similarly situated Improved Residential Parcels and Non-Residential Parcels, as applicable because such treatment accounts highest and best use of such Vacant Property and acknowledges the increased marketability and development potential of Vacant Property resulting from the Project.

(L) In order to reduce the financial impact the Assessment will have on the real property owners in the proposed Assessment Area, the City has decided to obtain

financing on behalf of the real property owners for their share of the Project Cost. The financing is expected to have a maturity of twenty (20) years or less.

(M) The Council hereby finds and determines that the Assessments associated with the Project to be imposed in accordance with this Resolution provide an equitable method of funding construction of the Project by fairly and reasonably allocating the cost to specially benefitted property, based upon the number of EAUs attributable to each Tax Parcel, in the manner

ARTICLE II
NOTICE AND PUBLIC HEARING

SECTION 2.01. **ESTIMATED CAPITAL COST AND PROJECT COST.** The estimated Capital Cost of the Project is \$9,327,324. The estimated Project Cost for the Project is \$10,290,309. The Project Cost will be funded through the imposition of Assessments against property located within the City in the manner set forth in Article III hereof.

SECTION 2.02. **ASSESSMENT ROLL.**

(A) The City Manager is hereby directed to prepare a final estimate of the Capital Cost and Project Cost of the Project and to prepare the preliminary Assessment Roll in the manner provided in the Ordinance.

(B) The City Manager shall apportion the Capital Cost and Project Cost among the parcels of real property within the City in conformity with Article III hereof.

(C) The estimate of Capital Cost, Project Cost, and the Assessment Roll shall be maintained on file in the Office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each Tax Parcel can be determined by use of a computer terminal available to the public.

SECTION 2.03. **PUBLIC HEARING.** A public hearing will be conducted by the Council on September 6, 2018, in the City Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, at 7:00 p.m., or as soon thereafter as the item can be heard, to consider (A) creation of the Assessment Area, (B) imposition of the Assessments, and (C) collection of the Assessments pursuant to the Uniform Assessment Collection Act.

SECTION 2.04. **NOTICE BY PUBLICATION.** Upon completion of the materials required by Section 2.02 hereof, the City Manager shall publish a notice of the public hearing authorized by Section 2.03 hereof in the manner and the time provided in Section 56.43(D) of the Ordinance. Such notice shall be in substantially the form attached hereto as Appendix A.

SECTION 2.05. **NOTICE BY MAIL.**

(A) Upon completion of the materials required by Section 2.02 hereof, the City Manager shall, at the time and in the manner specified in Section 56.43(E) of the Ordinance, provide first class mailed notice of the public hearing authorized by Section 2.03 hereof to each property owner proposed to be assessed at the address indicated on the Tax Roll. Such notice shall be in substantially the form attached hereto as Appendix B.

(B) The notice by mail shall inform each property owner of their ability to file a Unity of Title for purposes of the Assessments. All Unity of Titles must be filed on or before October 15, 2018 on a form approved by the City.

ARTICLE III ASSESSMENTS

SECTION 3.01. DESCRIPTION OF ASSESSMENT AREA.

(A) The Assessment Area shall include the property shown in Appendix C attached hereto and incorporated herein by reference.

(B) The Assessment Area is proposed for the purpose of improving the use and enjoyment of all properties located therein by constructing the Project to provide access to potable water service.

SECTION 3.02. IMPOSITION OF ASSESSMENTS.

(A) Assessments shall be imposed against property located within the Assessment Area for a period of twenty (20) years, the amount of which shall be computed in accordance with this Article III. The first annual Assessment will be included on the ad valorem tax bill mailed in November 2018.

(B) In accordance with Section 56.20(D) of the Ordinance, when imposed, the Assessment for each Fiscal Year shall constitute a lien upon the Tax Parcels located within the Assessment Area, which lien shall be equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid.

SECTION 3.03. ASSESSMENT UNITS.

(A) To reflect the relative amount of special benefit to be derived from construction of the Project, the number of EAUs attributable to each Tax Parcel shall be determined in the manner set forth in this Section 3.03(A).

(1) Residential Parcels shall be assigned one (1.0) EAU for each Lot assigned to the Tax Parcel.

(2) Non-Residential Parcels shall be assigned 6.66 EAUs for each acre of Land Area (rounded to the nearest hundredth) assigned to the Tax Parcel.

SECTION 3.04. PREPAYMENT AMOUNTS.

(A) Upon adoption of the Final Assessment Resolution, an Initial Prepayment Amount for each Tax Parcel located within the Assessment Area shall be calculated as the sum of (1) the amount computed by (a) dividing the number of EAUs attributable to such Tax Parcel by the total number of EAUs attributable to all Tax Parcels within the Assessment Area, and (b) multiplying the result by the estimated Capital Cost of the Project.

(B) Following the issuance of any Temporary Original Obligations, an Adjusted Prepayment Amount for each Tax Parcel shall be computed by multiplying (1) the amount computed by dividing (a) the Initial Prepayment Amount established herein for such Tax Parcel by (b) the sum of (i) the aggregate Initial Prepayment Amounts for all Tax Parcels within the Assessment Area, and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other Local Improvements funded from proceeds of the Temporary Original

Obligations by (2) the principal amount of the Proforma Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(I) hereof.

(C) Following issuance of the Permanent Original Obligations, an Adjusted Prepayment Amount for each Tax Parcel shall be computed by multiplying (1) the amount computed by dividing (a) the Adjusted Prepayment Amount established herein for such Tax Parcel by (b) the sum of (i) the aggregate Adjusted Prepayment Amounts for all Tax Parcels within the Assessment Area and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other Local Improvements funded from proceeds of the Permanent Original Obligations by (2) the principal amount of the Permanent Original Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(I) hereof.

(D) Following issuance of any Refunding Obligations, a new Adjusted Prepayment Amount for each Tax Parcel shall be computed by multiplying (1) the amount computed by dividing (a) the Adjusted Prepayment Amount for such Tax Parcel by (b) the sum of (i) the aggregate Adjusted Prepayment Amounts for all Tax Parcels within the Assessment Area and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other Local Improvements funded from proceeds of the Obligations being refunded by (2) the principal amount of such Refunding Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(I) hereof.

SECTION 3.05. **COMPUTATION OF ASSESSMENTS.** Assessments will be imposed for each Fiscal Year in which Obligations remain outstanding, and collected on the ad valorem tax bill in the manner authorized by the Uniform Assessment Collection Act. The annual Assessment shall be computed for each Tax Parcel in the manner set forth in this Section 3.05.

(A) **DEBT SERVICE AMOUNT.** A "Debt Service Amount" shall be computed for each Fiscal Year in the following manner:

(1) For each Fiscal Year in which Temporary Original Obligations will be outstanding, the "Debt Service Amount" shall be computed as the amount which would be payable in respect of the Proforma Obligations in accordance with a debt service schedule prepared with principal installments equal those established for the Proforma Obligations.

(2) Following issuance of the Permanent Original Obligations, the "Debt Service Amount" shall be computed for each Fiscal Year as the amount which would be payable in respect of the Permanent Obligations in accordance with a debt service schedule prepared with principal installments equal those established in the Funding Agreement; provided however, that the "Debt Service Amount" for any Fiscal Year shall not exceed the principal amount of Permanent Obligations then outstanding plus interest thereon.

(B) **PREPAYMENT MODIFICATION FACTOR.** A "Prepayment Modification Factor" shall be computed for each Fiscal Year by dividing (1) the amount computed by subtracting (a) the sum of the Adjusted Prepayment Amounts, as of the date on which the

Obligations are issued by the City, for all Tax Parcels as to which prepayment has been made following issuance of the Obligations, from (b) the total principal amount of Obligations initially issued by the City, by (2) the total principal amount of Obligations initially issued by the City.

(C) MODIFIED DEBT SERVICE AMOUNT. A "Modified Debt Service Amount" shall be computed for each Fiscal Year by multiplying (1) the Debt Service Amount by (2) the Prepayment Modification Factor.

(D) ANNUAL DEBT SERVICE FACTOR. An "Annual Debt Service Factor" shall be computed for each Fiscal Year by dividing (1) the Adjusted Prepayment Amount for such Tax Parcel, by (2) the aggregate Adjusted Prepayment Amount.

(E) ANNUAL DEBT SERVICE COMPONENT. The "Annual Debt Service Component" shall be computed for each Fiscal Year for each Tax Parcel by multiplying (1) the Modified Debt Service Amount, by (2) the Annual Debt Service Factor.

(F) COLLECTION COST COMPONENT. The "Collection Cost Component" shall be computed each Fiscal Year for each Tax Parcel by (1) dividing (a) the Adjusted Prepayment Amount for such Tax Parcel by (b) the sum of the aggregate Adjusted Prepayment Amount remaining in the Assessment Area, and (2) multiplying the result by the Collection Cost.

(G) STATUTORY DISCOUNT AMOUNT. The "Statutory Discount Amount" shall be computed for each Tax Parcel as the amount of the maximum discount for early payment of ad valorem taxes and non ad valorem assessments plus a reasonable contingency for uncollectible amounts, such amount to be calculated by deducting (1) the

sum of (a) the Annual Debt Service Component and (b) the Collection Cost Component, from (2) the amount computed by dividing (a) the sum of (i) the Annual Debt Service Component and (ii) the Collection Cost Component, by (b) 0.96.

(H) ASSESSMENT. The annual Assessment for each Tax Parcel shall be computed as the sum of (1) the Annual Debt Service Component, (2) the Collection Cost Component, and (3) the Statutory Discount Amount.

(I) REVISION OF ADJUSTED PREPAYMENT AMOUNT. Upon certification of the Assessment Roll each Fiscal Year, the Adjusted Prepayment Amount for each Tax Parcel shall be recomputed by deducting (1) the amount computed by (a) dividing (i) the principal component of the Debt Service Amount utilized to compute the Annual Debt Service Component for the Assessment Roll by (ii) the total Debt Service Amount utilized to compute the Annual Debt Service Component for the Assessment Roll and (b) multiplying the result by the Annual Debt Service Component included on the Assessment Roll for the Tax Parcel, from (2) the Adjusted Prepayment Amount (or for the initial Assessment Roll, the Initial Prepayment Amount) utilized to compute the annual Assessment included on the Assessment Roll for such Tax Parcel.

SECTION 3.06. PREPAYMENT OPTION.

(A) Initial Prepayment Option: Following adoption of the Final Assessment Resolution, the City Manager shall provide first class mailed notice to the owner of each Tax Parcel subject to the Assessment of the owner's option to prepay all future annual Assessments. On or prior to the date specified in such notice, the owner of each Tax Parcel subject to the Assessment shall be entitled to prepay all future annual

Assessments, upon payment of the Initial Prepayment Amount; provided, however, that due to the prepayment period extending beyond the deadline for certification of the Assessment Roll for the Fiscal Year beginning on October 1, 2018, the annual Assessment amount computed for each Tax Parcel in accordance with Section 3.05 will be billed on the Tax Bill and payable pursuant to the Uniform Assessment Collection Act.

(B) Additional Prepayment Option: Following the date specified in the notice provided pursuant to Section 3.06(A) hereof, or such later date as the Council may allow in its sole discretion, the owner of each Tax Parcel subject to the Assessments may be entitled to prepay all future unpaid annual Assessments upon payment of an amount equal to the sum of (1) the Adjusted Prepayment Amount for such Tax Parcel, and (2) interest on the Adjusted Prepayment Amount from the most recent date to which interest on the Obligations has been paid to the next date following such prepayment on which the City can redeem Obligations after providing all notices required to redeem all or any portion of the Obligations. During any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the future unpaid annual Assessments for the Tax Parcel by the amount of the Assessment that has been certified for collection with respect to such Tax Parcel.

(C) The amount of all prepayments made pursuant to this Section 3.06 shall be final. The City shall not be required to refund any portion of a prepayment if (1) the Capital Cost or Project Cost of the Project is less than the amount upon which such Initial

Prepayment Amount or Adjusted Prepayment Amount was computed, (2) the Initial Prepayment Amount or Adjusted Prepayment Amount is reduced upon issuance of the Permanent Original Obligations, or (3) the annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

SECTION 3.07. MANDATORY PREPAYMENT.

(A) The owner of a Tax Parcel subject to the Assessment shall immediately prepay all future unpaid annual Assessments for such Tax Parcel if (1) the Tax Parcel is to be acquired or otherwise transferred to an entity for which Assessments cannot be collected pursuant to the Uniform Assessment Collection Act through condemnation, negotiated sale or otherwise, (2) the Tax Parcel is subject to annexation by a governmental unit, or (3) a tax certificate has been issued and remains outstanding in respect of the Tax Parcel and the City, at its sole option, elects to accelerate the Assessment. In the case of (1) or (2) above, the owner of the Tax Parcel prior to condemnation, sale or other transfer must notify the City at least 30 days prior to the proposed acquisition or transfer date in order to allow the City sufficient time to determine the final amount due. Failure to provide such notice shall cause an automatic acceleration of such Assessment the effective date of which is 10 days prior to the proposed acquisition or transfer date.

(B) The amount required to prepay the future unpaid annual Assessments will be equal to the sum of (1) the Adjusted Prepayment Amount for such Tax Parcel, and (2) interest on the Adjusted Prepayment Amount, computed at a rate one full percentage point in excess of the rate on the Obligations, from the most recent date to which interest

on the Obligations has been paid to the next date following such prepayment on which the City can redeem Obligations after providing all notices required to redeem all or any portion of the Obligations.

(C) During any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the future unpaid annual Assessments for the Tax Parcel by the amount of the Assessment that has been certified for collection with respect to such Tax Parcel.

(D) The amount of all prepayments made pursuant to this Section 3.07 shall be final. The City shall not be required to refund any portion of a prepayment if (1) the Capital Cost or Project Cost of the Project is less than the amount upon which such Adjusted Prepayment Amount was computed, (2) the Adjusted Prepayment Amount is reduced upon issuance of the Permanent Original Obligations, or (3) the annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

(E) Collection by the City of mandatory prepayments pursuant to this Section 3.07 is supplemental and in addition to any other legally available remedy the City may seek for repayment of the Assessments.

SECTION 3.08. **REALLOCATION UPON FUTURE SUBDIVISION.** If a Tax Parcel is subsequently divided into more than one Tax Parcel, the Assessment imposed against such Tax Parcel may be reallocated among subsequently created Tax Parcels upon (1) application of the owner and (2) assignment of a distinct ad valorem property tax

identification number to each Tax Parcel by the Property Appraiser. However, no portion of the Assessment may be allocated to property proposed for dedication to the public or to common use of subdivided parcels.

SECTION 3.09. VACANT PROPERTY OPTION.

(A) Optional Declaration of Unity of Title. Any person owning a Residential Parcel containing Vacant Property may elect to execute and file with the City a Declaration of Unity of Title so that such property will be considered one Lot for purposes of the Assessment.

(B) Effect. Execution and recording of a Declaration of Unity of Title by a property owner allows that owner's property to be considered as one unified Lot for purposes of the Assessment and the assignment of EAUs to the property and restricts the property owner's ability to sell or transfer less than the entire parcel to another person or entity without obtaining a release of the Declaration of Unity of Title. The subject property may include two (2) or more contiguous Platted Lots or it may be one Parcel of Record that the owner does not intend to fully or further develop. For purposes of this Section, "contiguous" means a Lot that is directly adjacent to and shares a boundary with another Lot. Lots separated by a roadway or platted right-of-way are not considered to be "contiguous." A person owning a Residential Parcel consisting of more than two (2) Lots may elect to file a Declaration of Unity of Title on some or all of such Lots.

(C) Approval Procedure. Declarations of Unity of Title shall be submitted on forms provided by the City. All Declarations of Unity of Title must be filed with the City on or before October 15, 2018. The City shall evaluate the Declaration of Unity of Title for

completeness and ensure that the property is eligible pursuant to the standards established herein. After approval by the City, the property owner will be responsible for recording the Declaration of Unity of Title in the Public Records of Brevard County at the property owner's expense.

(D) Release of Declaration of Unity of Title. The City Manager, or his/her designee, may, in their sole discretion, release a property encumbered by a Declaration of Unity of Title. If released, the property owner shall pay all unpaid Assessments for the Project (based upon the number of EAUs assigned to the Residential Parcel prior to filing of the Declaration of Unity of Title) plus reasonable fees and costs incurred by the City. When a release of a Declaration of Unity of Title is approved, the property owner will be provided with a release executed by the City Manager or his/her designee and the property owner will be responsible for recording the Release in the Public Records of Brevard County prior to conveying any portion of the unified parcel.

(E) Upon development of any Vacant Property in the Assessment Area, the number of EAUs assigned to such Vacant Property in accordance with Section 3.03 hereof shall be adjusted upward as required to reflect such Tax Parcel's expected wastewater flow from the property based on its actual development, as determined based on historical water usage for similar properties or the estimated sewage flows provided in Rule 64E-6.008, Florida Administrative Code or its successor in function. Any additional amounts owed shall be collected as an additional Connection Fee prior to connection to the Project in accordance with the City's policies and procedures for Connection Fees.

The amount payable as an additional Connection Fee for the additional EAUs shall be determined in accordance with Section 3.04(A) hereof.

**ARTICLE IV
GENERAL PROVISIONS**

SECTION 4.01. **METHOD OF COLLECTION.** The Assessments shall be collected pursuant to the Uniform Assessment Collection Act; provided however, that any Assessment against Government Property or against Separately Billed Property shall be collected pursuant to Section 56.44(B) of the Ordinance.

SECTION 4.02. **SEVERABILITY.** If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 4.03. **INTENT FOR REIMBURSEMENT FROM BOND PROCEEDS.** The City is hereby authorized to temporarily advance funds from available utility revenue funds for the payment of the Capital Cost of the Project, such advances to be reimbursed from proceeds of tax-exempt Obligations. This is a Declaration of Official Intent under U.S. Treasury Regulations for purposes of Sections 103 and 141 to 150 of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"). The City declares that it reasonably expects that the Capital Cost for the Project will be reimbursed with the proceeds of bonds (as defined in Section 150 of the Internal Revenue Code). The maximum principal amount of bonds expected to be issued for the Capital Cost of the Project is \$10,290,309.

SECTION 4.04. **EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

This resolution was duly enacted at Meeting No. 2018- , of the City Council of the City of Palm Bay, Brevard County, Florida, held on , 2018.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

APPROVED FOR FORM AND
CORRECTNESS:

Patricia D. Smith, CITY ATTORNEY

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

To Be Published on or before August 16, 2018

NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SPECIAL ASSESSMENTS

[INSERT MAP OF ASSESSMENT AREA]

Notice is hereby given that the City Council of the City of Palm Bay, Florida, will conduct a public hearing to consider creation of the Port Malabar Unit 32 Potable Water Expansion Project Municipal Service Benefit Unit ("Assessment Area"), as shown above, and to impose special assessments against certain parcels of property located therein for the fiscal year beginning on October 1, 2018 and future fiscal years for fund the design, acquisition, installation, and construction of the Port Malabar Unit 32 Potable Water Expansion Project. The hearing will be held on September 6, 2018 in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, at 7:00 p.m., or as soon thereafter as the item can be heard, for the purpose of receiving public comment on the proposed Assessment Area, the assessments, and their collection on the ad valorem tax bill.

The Assessments have been proposed to fund design and construction of the Port Malabar Unit 32 Potable Water Expansion Project that will provide the properties within the proposed MSBU with access to central potable water service. These facilities include the pipes, mains, and other capital improvements and facilities required for the City to provide central potable water service to all Tax Parcels located in the Assessment Area. The assessment for each parcel of property will be based upon the number of equivalent assessment units (EAUs) attributable to such parcel based on the property's use and the number of buildable lots for residential property and the amount of land area for non-residential property. A more specific description is set forth in the Initial Assessment Resolution adopted by the City Council on August 2, 2018. Copies of the Initial Assessment Resolution and the preliminary assessment roll are available for inspection at the City Clerk's Office, City Council of Palm Bay, 120 Malabar Road SE, Palm Bay, Florida 32907. Copies of the plans and specifications for the Port Malabar Unit 32 Potable Water Extension Project are available for inspection at the Utilities Department, 120 Malabar Road SE, Palm Bay, Florida.

The proposed maximum annual assessment is \$399 per EAU. The assessments for most properties will be collected on the ad valorem tax bill, as authorized by Section 197.3632, Florida Statutes. However, the assessments for Government Property and for Separately Billed Properties, as defined in the Initial Assessment Resolution, will be collected by separate bill. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. The City Council intends to collect the assessments in twenty (20) annual assessments, the first of which will be included on the ad valorem tax bill to be mailed in November 2018.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk at (321) 952-3414 at least 48 hours prior to the date of the hearing. If hearing impaired, telephone the Florida Relay Service Numbers, 711, for assistance.

All affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If a person wishes to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

If you have any questions, please contact the City's Utilities Department at (941)_____.

CITY OF PALM BAY, FLORIDA

APPENDIX B

FORM OF NOTICE TO BE MAILED

City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907
[, Director]
Phone:[]

PALM BAY, FLORIDA

NOTICE OF PUBLIC HEARING FOR
PORT MALABAR UNIT 32 POTABLE
WATER EXPANSION ASSESSMENTS

NOTICE DATE: AUGUST 16, 2018

[Property Owner Name]
[Street Address]
[City, State and zip]

*****NOTICE TO PROPERTY OWNER*****

Re: Parcel ID Number [Insert Number]
Port Malabar Unit 32 Potable Water Expansion Project

Dear Property Owner:

An assessment area is being created by the City of Palm Bay to provide access to potable water service to your property through the Palm Bay Utilities Department. Potable water extension facilities will be constructed to provide these services. The cost of these facilities will be funded by assessments against the property to be served. The potable water expansion project will consist of all pipes, mains, and other capital improvements and facilities required for the City to provide central potable water service to all Tax Parcels located in the Assessment Area. The assessment for each parcel of property will be based on the number of equivalent assessment units (EAUs) attributed to such parcel based on the property's use and the number of buildable lots for residential properties and the amount of land area for non-residential property.

A more specific description of the assessment program is set forth in the Initial Assessment Resolution adopted by the City Council on August 2, 2018. Copies of the Initial Assessment Resolution, the plans and specifications for the potable water facilities, and the preliminary assessment roll are available for your review at the City Clerk's Office, City Council of Palm Bay, 120 Malabar Road SE, Palm Bay, Florida 32907. Information regarding the assessment for your specific property, including the number of ERCs, is attached to this letter.

Property owners who have two or more contiguous platted lots or unplatted parcels of record assigned two or more buildable lots may execute a Declaration of Unity of Title, that allows a property owner's real property to be considered as one unified lot or parcel

for the purpose of the assessment program. After filing a valid Unity of Title, you would pay the reduced EAU allocation; however, the execution of the Unity of Title will restrict your ability to develop or transfer less than the entire parcel to another person or entity without obtaining a release of the Declaration of Unity of Title from the City, but there is no obligation for the City to grant this release nor any guarantee that your request will be granted. If your property is eligible for the Unity of Title, please contact the City _____ at _____ to obtain information on filing a Declaration of Unity of Title. Execution of the Unity of Title will be due to the City by October 15, 2018 to be effective. Property owners should consult with an attorney prior to executing a Declaration of Unity of Title.

The City intends to finance this assessment project; this will permit the cost attributable to your property to be amortized over a period of twenty (20) years. The annual assessment will include your share of the principal, interest and collection and administrative costs. The maximum annual assessment is estimated to be \$399 per EAU. The City intends to include annual assessments on your ad valorem tax bill the first of which will be included on the ad valorem tax bill to be mailed in November 2018. However, you may choose to prepay your assessment in full and avoid payment on the ad valorem tax bill. Please do not send payment now. If the assessments are imposed, you will receive a separate notice of the amount, due date and place for payment.

Failure to pay your assessments appearing on the ad valorem tax bill will cause a tax certificate to be issued against the property which may result in a loss of title. The City intends to collect up to \$15,896,160 in assessment revenues depending on participating tax parcels, over the next twenty (20) years for this project.

The City Council will hold a public hearing at 7:00 p.m., or as soon thereafter as the matter can be heard, on September 6, 2018 in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of receiving comments on the proposed assessments, including collection on the ad valorem tax bill. You are invited to attend and participate in the public hearing or to file written objections with the City Council prior to or during the hearing. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the City Clerk at (321) 952-3414 at least 48 hours prior to the date of the hearing. If hearing impaired, telephone the Florida Relay Service Numbers, 711, for assistance.

If there is a mistake on this notice it will be corrected. If you have any questions regarding the number of EAUs assigned to your property or the amount of the assessment, please contact the _____ by telephone at _____, or by email at _____.

* * * * * **SEND NO MONEY NOW. THIS IS NOT AN INVOICE** * * * * *

PORT MALABAR UNIT 32 POTABLE WATER EXPANSION ASSESSMENT AREA

[Property Owner Name]
Parcel ID Number [Insert Number]

ASSIGNED ASSESSMENT UNITS

Property Use: [Residential, Inst. or
Comm.]

Total Lots assigned to the property: [number or NA if Non]

Total Land Area assigned to the property: [number or NA if Res]

Total number of EAUs attributed to property: [Insert Number]

PREPAYMENT AND ANNUAL ASSESSMENTS

Initial prepayment amount (excludes
permanent financing cost): [Insert Amount]

Number of annual payments: not to exceed 15

Maximum annual assessment: [Insert Amount]

Expected date of first bill: November 2018

Expected date of last bill: November 2032

* * * * * **SEND NO MONEY NOW. THIS IS NOT AN INVOICE** * * * * *

APPENDIX C

DESCRIPTION OF TAX PARCELS LOCATED IN THE PORT MALABAR UNIT 32 POTABLE WATER EXPANSION PROJECT ASSESSMENT AREA