



HARDEE COUNTY
ECONOMIC DEVELOPMENT COUNCIL



HARDEE COUNTY
INDUSTRIAL DEVELOPMENT AUTHORITY

AGENDA

Economic Development Council/Industrial Development Authority

EDC/IDA REGULAR MEETING

September 14, 2023, at 8:30 AM

**COMMISSIONER CHAMBERS, 412 WEST ORANGE STREET, ROOM 102,
WAUCHULA, FL 33873**

BOARD MEMBERS

Chairman Lee Mikell
Vice-Chairman Barney Cherry
Gene Davis
Callie Ward
Courtney Green
John Gill
Chris Idsardi

- 1. CALL TO ORDER**
- 2. APPROVAL OF AGENDA**
- 3. APPROVAL OF MINUTES**

- 1. LEE MIKELL- AUGUST 2023 EDC/IDA MINUTES**

ACTION RECOMMENDED: Motion to approve the August 2023 EDC/IDA minutes as presented.

- 4. BOARD EDUCATION**

- 1. SARAH EVERS- LAND DEVELOPMENT AGREEMENTS PRESENTATION**
- 2. KRYSTIN CHAPMAN- EXECUTIVE REPORT**

- 5. AGENDA ITEMS**

- 1. JOHN DAVIS- ANNUAL BUDGETS FOR FYE 2024**

ACTION RECOMMENDED: Motion to adopt Resolution 2023-04 a resolution adopting a budget inclusive of the General Fund, South Ft. Meade Mine Agreement Fund, and Ona Mine Special Revenue Fund for fiscal year 2023-24, and providing for severability, and providing for an effective date and authorize the Chair or Vice Chair to sign.

ACTION RECOMMENDED: Motion to adopt the EDC budget for fiscal year 2023-2024.

- 2. CLINT HUNNICUTT- WAUCHULA FRESH UPDATE**
- 3. JUSTIN SMITH- ARCHITECTURAL AND ENGINEERING CONTINUING SERVICES CONTRACTS**

ACTION RECOMMENDED: Motion to approve the contracts and authorize the Chair or Vice Chair to sign.

4. **SARAH EVERS- CONSTRUCTION MANAGER CONTINUING SERVICES CONTRACTS**

ACTION RECOMMENDED: Motion to approve the contract and authorize the Chair to sign.

5. **DENISE GRIMSLEY- HARDEE COUNTY EDUCATION FOUNDATION RESOLUTION 2023-05 AND FUNDING AGREEMENT**

ACTION RECOMMENDED: Motion to adopt Resolution 2023-05, approve funding agreement, and authorize the Chair or Vice Chair to sign.

6. **DENISE GRIMSLEY- UNIVERSITY OF SOUTH FLORIDA COLLABORATION AGREEMENT**

ACTION RECOMMENDED: Motion to approve the University of South Florida Collaboration Agreement and to provide funding in the amount of \$10,000.00.

7. **JUSTIN SMITH- PURCHASE CONTRACT FOR WEST PALMETTO STREET PROPERTY**

ACTION RECOMMENDED: Motion to approve the purchase contract for West Palmetto Street and authorize the Chair or Vice Chair to sign.

ACTION RECOMMENDED: Motion to approve Resolution 2023-06 authorizing a resolution of the Hardee County Industrial Development Authority approving and authorizing the execution of a commercial sale/purchase contract for the purchase of real property located at West Palmetto Street and approving and authorizing closing on the purchase of the real property, and authorizing the Chair or Vice Chair to sign.

8. **SARAH EVERS- TRUSSWORKS REALTY FLORIDA, LLC COMMERCIAL SALE/PURCHASE CONTRACT**

ACTION RECOMMENDED: Motion to approve the commercial sale/purchase contract with Trussworks Realty Florida, LLC and authorize the Chair or Vice Chair to sign.

ACTION RECOMMENDED: Motion to approve Resolution 2023-07 authorizing the execution of a sale/purchase contract for the sale of real property located at 205 St. Rd 62 and three parcels at 0 St. Rd. 62, Wauchula, Hardee County, Florida and authorizing the Chair or Vice Chair to sign all documents necessary for closing.

9. **DENISE GRIMSLEY- SOUND SYSTEM FOR BOARDROOM DISCUSSION**

ACTION RECOMMENDED: Motion to fund BOCC sound system upgrade in the amount not to exceed \$12,000.

10. JUSTIN SMITH- THIRD AMENDMENT TO SUBLEASE WITH DUKE ENERGY FLORIDA, LLC AND THE CORRESPONDING MEMORANDUM OF SUBLEASE

ACTION RECOMMENDED: Motion to approve the third amendment to sublease with Duke Energy Florida, LLC and the corresponding memorandum of sublease and authorize the Chair or Vice Chair to sign.

11. JUSTIN SMITH- THIRD AMENDMENT TO THE LAND LEASE AGREEMENT WITH SOUTH FT. MEADE LAND MANAGEMENT, INC AND MOSAIC FERTILIZER AND THE CORRESPONDING MEMORANDUM OF LEASE

ACTION RECOMMENDED: Motion to approve the third amendment to the land lease agreement with South Ft. Meade Land Management, Inc and Mosaic Fertilizer, LLC and the corresponding memorandum of lease and authorize the Chair or Vice Chair to sign.

12. SHANNON NASH- ANNUAL EVALUATION OF DENISE GRIMSLEY

6. FINANCIAL REPORT

1. KRISTI SCHIERLING- AUGUST 2023 EDC/IDA FINANCIALS

ACTION RECOMMENDED: Motion to approve the August 2023 EDC/IDA financials as presented.

7. ANNOUNCEMENTS/OTHER BUSINESS/PUBLIC COMMENTS

8. ADJOURNMENT



HARDEE COUNTY
ECONOMIC DEVELOPMENT COUNCIL

MINUTES

Hardee County Economic Development Council
Hardee County Industrial Development Authority

Regular Meeting

August 10, 2023, at 8:30 AM

Commissioner Chambers
412 W. Orange Street, Room 102, Wauchula, FL 33873

Board Members

Lee Mikell, Chairman
Barney Cherry, Vice-Chairman
Gene Davis
Callie Ward
Courtney Green
Chris Idsardi
John Gill



HARDEE COUNTY
INDUSTRIAL DEVELOPMENT AUTHORITY

1. CALL TO ORDER

| Attendee Name | Title | Status | Arrived |
|----------------|---------------|---------|---------|
| Lee Mikell | Chairman | Present | |
| Barney Cherry | Vice-Chairman | Present | |
| Gene Davis | Board Member | Present | |
| Calli Ward | Board Member | Present | |
| Courtney Green | Board Member | Present | |
| Chris Idsardi | Board Member | Present | |
| John Gill | Board Member | Present | |

Visiting: John Davis, County Commissioner Renee Wyatt, Bruce Stayer, and Michael Kelly.
Staff: Denise Grimsley, Sarah Evers, Justin Smith, Krystin Chapman, and Kristi Schierling
EDC/IDA Attorney: Shannon Nash

Chairman Mikell called the meeting to order at 8:30 a.m.

2. APPROVAL OF AGENDA

Motion by Board Member Gene Davis and second by Board Member Barney Cherry to approve as presented.

Motion carried
Ayes – Mikell, Cherry, Davis, Ward, Green, Idsardi, and Gill
Nays- None
Absent- None

3. APPROVAL OF MINUTES

1. July 2023 EDC/IDA Minutes

Motion by Board Member Calli Ward and second by Board Member Chris Idsardi to approve the July 2023 EDC/IDA minutes as presented.

Motion carried
Ayes – Mikell, Cherry, Davis, Ward, Green, Idsardi, and Gill
Nays – None
Absent- None

4. BOARD EDUCATION

1. Denise Grimsley- Mission, Vision, Values

Denise Grimsley presented the board with a presentation on the brief history of the EDC and IDA and a few of the past and current projects of the IDA. We went through a branding change last year and have elevated the EDC. We are known as The Development Group. Denise outlined our mission, vision, and values. She also discussed the five pillars and the onboarding schedule that would be happening over the next several months.

2. **Krystin Chapman-Executive Report**

Krystin Chapman provided the executive report this month. Denise Grimsley, Courtney Green, and Krystin Chapman all attended the Learners to Earners Workforce Summit. This year's Junior Leadership class met last week at our office. Justin Smith conducted a personality test with them. They were very engaged students. Krystin discussed the CEO Roundtables. R. Riveter will be the Chamber Lunch N Learn speaker on August 24th. Denise Grimsley received the Above and Beyond Award. Sarah Evers provided an update on the corridor study.

5. AGENDA ITEMS

1. **John Davis- Draft Ona Mine Fund Budget for FYE 2024**

John Davis reviewed the income and expenses for the Ona Mine Fund Budget for FYE 2024.

2. **John Davis- Draft General Fund and Special Revenue Fund Budget for FYE 2024**

John Davis reviewed the income and expenses for the general fund and special revenue fund for FYE 2024.

3. **John Davis- Draft EDC Budget for FYE 2024**

John Davis reviewed the income and expenses for the EDC budget for FYE 2024.

4. **Justin Smith- Recommendation for Construction Management at Risk Services for the Bostick Rd Infrastructure Rd Project**

Justin Smith stated that this is from the RFQ from last month. We received five responses. This will not be a recurring services contract. We are seeking to enter a single contract with one of the respondents in the order ranked by the evaluation committee.

Motion by Board Member Courtney Green and second by Board Member Chris Idsardi to enter negotiations with the respondents of the construction management at risk services for the Bostick Rd Infrastructure project in the following ranked order, LM Properties (390 points), Marmer Construction (371 points), Halfacre Construction (338 points), Cobb Site Development (314 points), and Sema Construction (285 points) and return a contract to the Board for final approval.

Motion carried

Ayes- Mikell, Cherry, Davis, Ward, Green, Idsardi, and Gill

Nays- None

Absent- None

5. **Sarah Evers- Recommendations for Architectural and Professional Engineering Services**

Sarah Evers stated that this is from the RFQ from last month. This will be a continuing services contract. We received nine responses and would like to enter into contracts with six of them. Sarah Evers reviewed the evaluation criteria. Based on the criteria and rankings, the committee is recommending the following six firms. They are Kimley Horn, Hunter Engineering, Chastain, Skillman, The Lutz Group, George F. Young, and Hall Darling.

Motion by Board Member Calli Ward and second by John Gill to allow staff to enter contract negotiations with Kimley Horn, Hunter Engineering, Chastain Skillman, The Lunz Group, George F. Young, and Hall Darling and to bring back the contracts for approval.

Motion carried

**Ayes- Mikell, Cherry, Davis, Ward, Green, Idsardi and Gill
Nays- None
Absent- None**

6. Denise Grimsley- Purchase Contract for 107 E. Main Street, Wauchula (TDG Office)

Denise Grimsley reminded the board that over a year ago, this board had directed the staff to look at purchasing the building. This contract is for \$1.1M with a six month inspection period. We have had a building inspection by a general contractor.

Motion by Board Member Calli Ward and second by Board Member Barney Cherry to approve the purchase contract for 107 E. Main Street, Wauchula and authorize the Chair or Vice Chair to sign.

Motion carried

**Ayes- Mikell, Cherry, Davis, Ward, Green, Idsardi, and Gill
Nays- None
Absent- None**

7. Kristi Schierling- Banking Business

Kristi Schierling explained that a resolution was needed for the board to begin doing business with another banking entity. With the market changing, we wanted to have the availability to do business with First National Bank of Wauchula if they could provide us with better rates.

Motion by Board Member Courtney Green and second by John Gill to authorize a banking relationship with First National Bank of Wauchula and to adopt Resolution 2023-03.

Motion carried

**Ayes- Mikell, Cherry, Davis, Ward, Green, Idsardi, and Gill
Nays- None
Absent- None**

6. FINANCIAL REPORT

1. July 2023 EDC/IDA Financials:

Motion by Board Member Gene Davis and second by Board Member Calli Ward to approve the July 2023 EDC/IDA Financials as presented.

Motion carried

**Ayes – Mikell, Cherry, Davis, Ward, Green, Idsardi, and Gill
Nays – None
Absent- None**

7. ANNOUNCEMENTS/OTHER BUSINESS/PUBLIC COMMENTS

Attorney Nash has the evaluation of Denise Grimsley for each board member to complete. She would like to have them back by August 31st and at the next meeting, the evaluation will be presented.

8. ADJOURNMENT

RESOLUTION NO. 2023-04

A RESOLUTION OF THE HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY ADOPTING A BUDGET FOR FISCAL YEAR 2023-24; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Hardee County Industrial Development Authority is a special district under Chapter 189, Florida Statutes;

WHEREAS, Section 189.016(3), Florida Statutes, requires the governing body of each special district to adopt a budget by resolution each fiscal year; and

WHEREAS, notice of the public meeting to adopt the budget has been properly advertised.

NOW THEREFORE, BE IT RESOLVED BY THE HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY THAT:

Section 1: Recitals. The above recitals are hereby incorporated by reference.

Section 2: Adoption of Budget. The budget attached hereto as Exhibit “A” is hereby adopted for Fiscal Year 2023-2024, inclusive of the “General Fund / S. Ft. Meade Mine Agreement Fund” and the “Ona Mine Special Revenue Fund”.

Section 3: Severability. If any portion or section of this Resolution shall be declared invalid, unconstitutional, or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality, or unenforceability shall not affect any of the remaining portion or sections of this Resolution.

Section 4: Effective Date. This Resolution shall become effective immediately upon adoption.

APPROVED AND ADOPTED this 14th day of September, 2023 by the Hardee County Industrial Development Authority.

HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

By: _____
Lee Mikell, Chairman

ATTEST:

By: _____

Name: _____

EXHIBIT “A”

CONTRACT FOR PROFESSIONAL SERVICES ON A CONTINUING BASIS

THIS AGREEMENT is made by and between the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a dependent special district with an address at 107 E. Main Street, Wauchula, Florida 33873 (the “IDA”) and **KIMLEY-HORN AND ASSOCIATES, INC.** a North Carolina corporation, with an address at 109 South Kentucky Avenue, Lakeland, Florida 33801 (herein called “Consultant”).

1. Premise.

1.1. IDA solicited responses to RFQ 2023-02 for qualified architectural and engineering firms to provide professional services on a continuing basis pursuant to Section 287.055, Florida Statutes. IDA would like for Consultant to perform the work and Consultant would like to do so on the terms and conditions set forth herein.

1.2. Consultant will provide professional services to the IDA on an as-needed basis, based upon notices to proceed to be issued by the IDA (each a “Project”). Consultant understands and agrees that this Agreement does not guarantee award to provide services for a specific Project nor exclusivity to perform services.

1.3. The “Contract Documents” that constitute the entire agreement between the IDA and Consultant shall consist of: this Agreement and all exhibits hereto, RFQ 2023-02, IDA issued Notices to Proceed, proposals, drawings or other documents submitted by Consultant and accepted in writing by IDA, written amendments to this Agreement that are validly executed by IDA and Consultant, and IDA approved change orders.

1.4. Consultant represents that it is thoroughly familiar with and understands the requirements of performing professional services and that it is experienced in the administration of projects of the type and scope contemplated. Consultant represents to IDA that Consultant has all necessary education, skill, knowledge, licensure/certification, and experience required to perform services and will maintain, at all times during the term of this Agreement, such personnel on its staff to provide the services contemplated hereby within the time periods required hereby. In addition, Consultant represents that it has, and all of the subcontractors performing services under this Agreement will have, all applicable licenses or certifications required by the State of Florida to perform the professional services.

2. Work.

2.1. Consultant, in consideration of the premises and mutual covenants herein contained, agrees to furnish at its own cost and expense, all materials, equipment, and insurance necessary to provide professional design and engineering services specifically provided for in Consultant’s proposal for a Project (herein collectively called the “Work”).

2.2. The scope of Work will be identified on a project-by-project basis and will vary depending on needs of a specific Project. All services shall be performed pursuant to applicable law, rule, or regulation and pursuant to applicable policy of the IDA. IDA, upon notice to

Consultant, reserves the right to add or delete, at any time, any or all tasks or services.

2.3. A Notice to Proceed issued by IDA is required to begin Work for each Project and no work shall begin and no fees/costs shall be incurred as to a particular Project (or phase of a Project, as applicable) unless and until the IDA issues a relevant Notice to Proceed. Consultant agrees and understands that IDA is under no obligation to issue any Notice to Proceed. If IDA does not issue a Notice to Proceed, there will be no recovery of any monetary awards by Consultant, including cost and/or anticipated profit. For avoidance of any doubt, a Notice to Proceed is subject to the terms and conditions of this Contract and becomes a Contract Document upon its issuance.

2.4. A Notice to Proceed may be issued on behalf of the IDA by the Chief Executive Office of The Hardee County Economic Development Council, Inc., d/b/a The Development Group, or her authorized designee (the "IDA Project Manager").

2.5. Unless otherwise provided in writing, Consultant's point of contact and project manager for day-to-day activities is: Robert "Bo" Conerly, P.E., bo.conerly@kimley-horn.com, 863-701-8702.

3. Contract Price.

3.1. Consultant's standard hourly rates and expenses are attached hereto as Exhibit "A". Such rates and expenses shall remain in effect through the duration of the contract period. Provided, however, that Consultant shall have the right to adjust its hourly rates once yearly as it does in the ordinary course of its business. Mileage and man-hours spent in travel time are incidental to the Work and are not an extra compensable expense.

3.2. The signing of this Agreement and any Notice to Proceed by the Consultant shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in the Agreement and that Notice to Proceed are accurate, complete, and current as of the date of this Agreement and that Notice to Proceed. The said rates and costs shall be adjusted to exclude any significant sums should the IDA determine that the rates and costs were increased due to the inaccurate, incomplete, or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants or contractors. The IDA may exercise its rights under this "Certificate" within one year following final payment.

4. Payment.

4.1. The IDA Project Manager must approve each payment request. Each payment application shall: (i) detail an explanation of what work was completed and reference the applicable Project; (ii) include a certification by Consultant that the work performed was in complete accordance with the Contract Documents; (iii) include, as applicable, copies of paid receipts, invoices, or other documentation acceptable to the IDA Project Manager to establish that an expense was actually incurred and necessary in the performance of the Work.

4.2. Consultant shall bill the IDA monthly in proportion to Work performed. Consultant shall be paid pursuant to the terms of Florida Statutes Chapter 218, the Local Government Prompt Payment Act.

5. **Term and Termination.**

5.1. The term of this Agreement shall be for one-year and shall automatically renew on an annual basis unless sooner terminated as provided herein.

5.2. IDA may terminate this Agreement, in whole or in part, for the IDA's convenience upon 30 days written notice to Consultant. Either party may, upon written notice, terminate this Agreement, in whole or in part, at any time due to the non-terminating party's failure to perform any material provision or portion of the Contract Documents. Upon receipt of a termination notice, services shall be immediately discontinued (unless the notice directs otherwise) and all plans and materials as may have been accumulated in performance of this Agreement, whether completed or in process, shall be delivered to the IDA upon payment to Consultant for services performed up to the date of termination. Upon termination, an equitable adjustment in the contract price shall be made based on Work satisfactorily performed; however, under no circumstance shall any amount be allowed for anticipated profit on unperformed services.

5.3. The rights and remedies of the IDA provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

6. **Commencement and Completion of Work.** Consultant hereby agrees to commence Work within ten (10) days from receipt of a Notice to Proceed unless otherwise specified on the Notice to Proceed or otherwise agreed in writing by the IDA Project Manager. Consultant shall be solely responsible for the means, methods, and techniques utilized in Consultant's Work. Notwithstanding the foregoing, Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, equipment maintenance and inspection, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor.

7. **Project Time.** The "Project Time" shall be the agreed-upon number of calendar days from the date on which the Notice to Proceed is issued by the IDA to completion of a final design and/or, as applicable, completion of specified-Work for a designated Project. Contractor warrants that a final design for each Project shall be completed within the specified Project Time, provided that there are no unreasonable and unanticipated delays beyond Consultant's control; provided, however, that Consultant shall promptly notify IDA in writing of all anticipated or actual delays. Further, Consultant shall notify IDA in writing of any deadline by which documents or information from IDA is needed and shall do so sufficiently in advance of such deadline so that any delay can be avoided.

8. **Change Orders.** The contract prices and the Project Time may be changed only by a written change order executed by the IDA Project Manager. The IDA, without invalidating this Agreement, may order changes in the Work within the general scope of the Project consisting

of additions, deletions, or other revisions, with the contract price and the Project Time being adjusted accordingly.

8.1. The cost or credit to IDA resulting from a change order shall be determined by mutual acceptance of a lump sum properly itemized. If an itemized lump sum cannot be agreed upon, Consultant shall nonetheless promptly proceed with the Work involved. The costs or credits shall then be determined on the basis of Consultant's reasonable expenditures and savings. In such case, Consultant shall keep and present an itemized accounting together with appropriate supporting data. The amount of credit to be allowed by Consultant to IDA for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease as confirmed by Consultant's records.

8.2. If Consultant claims that additional cost or time is involved because of any unanticipated event outside of Consultant's control, Consultant shall make such claim solely as provided herein. If Consultant wishes to make a claim for an increase in the contract price or an extension in the Project Time, Consultant shall give IDA written notice thereof within seven (7) calendar days after occurrence of the event giving rise to such claim. This written notice shall be given by Consultant before proceeding to execute Work resulting from the event, except in an emergency endangering life or property in which case Consultant shall proceed as necessary under the circumstances.

9. **Performance.** Consultant covenants that all services shall be performed by skilled and competent personnel and Consultant will perform its services in accordance with the professional standard of care ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided ("Standard of Care"). . Consultant shall be responsible for the technical accuracy of the services it performs and documents it prepares, and neither IDA nor its agents shall be responsible for discovering deficiencies in such services or documents. Acceptance of the Work and final payment shall not relieve Consultant of the obligation to remedy Work that does not comply with the Standard of Care as defined herein. The obligations set forth in this paragraph shall survive final payment to Consultant and the termination of this Agreement.

10. **Prepared Materials.** The Consultant shall deliver to the IDA, if requested, reproducible and computer files of all final documents and materials prepared by and for the IDA under this Agreement and any Notice to Proceed, including, but not limited to Project specifications and record drawings. All documents provided by Consultant to IDA shall be delivered both in hard-copy and in digital, hyperlink formats. All drawings, maps, sketches, and other data developed or purchased under this Agreement or at the IDA's expense shall be and remain its property and may be reproduced and reused at the direction of the IDA. Consultant shall grant the IDA unlimited license to use all work product to complete any on-going projects, provided that use by the IDA of the work product is at the IDA's sole risk and without liability or legal exposure to Consultant or anyone working by or through Consultant and further provided that Consultant is paid all monies due under the applicable project from which the work product was rendered.

11. Construction Costs and Estimates.

11.1. The ability to complete Projects at or under budget is of great importance to the IDA. Evaluations of individual Project budget(s), preliminary estimates of Construction Cost (as defined hereinunder), and detailed estimates of Construction Cost prepared by the Consultant, shall represent the Consultant's best judgment as a design professional familiar with the construction industry. Consultant shall review the Project budget prior to undertaking substantive work on the Project. As to construction projects, the "Construction Cost" shall be the total cost or estimated cost to the IDA of all elements of the Project(s), including design costs designed or specified by the Consultant, including costs of additives or deductive work items regardless of whether they are awarded for construction. Construction Cost shall include the cost at current market rates of labor and materials furnished by the IDA and equipment designed, specified, selected or specially provided for by the Consultant, including a reasonable allowance of the contractor's overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work during construction.

11.2. If Consultant initially determines that the Construction Cost will likely exceed the budget, Consultant shall promptly notify IDA in writing and suspend further Work on the Project. If Consultant initially believes that the Construction Cost of the proposed Project will likely not exceed the budget, Consultant shall proceed with its Work until it has completed approximately thirty percent (30%) of the Project's overall professional services, at which point Consultant shall deliver to IDA a detailed written estimate of Construction Cost ("First Estimate"). The IDA shall review the First Estimate and provide a written directive to either continue or suspend Work on the Project.

11.3. If IDA has directed Consultant to continue Work on the Project, Consultant shall proceed with its work until it has completed approximately ninety percent (90%) of the Project's overall professional services, at which point Consultant shall deliver to IDA another detailed written estimate of Construction Cost ("Second Estimate"). If the Second Estimate exceeds the First Estimate by more than five percent (5%), the Consultant shall explain, in writing, the reason(s) for the increase. The IDA shall review the Second Estimate and, in IDA's discretion, shall provide a written directive that Consultant: (a) continue the Work on the Project, (b) suspend Work on the Project, or (c) cooperate with IDA to revise Project scope and quality as required to reduce Construction Cost. If the IDA chooses to proceed with option (c), the Consultant shall, at its own expense, modify the specifications or plans as necessary and subsequently approved by the IDA.

11.4. Notwithstanding the foregoing, because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the IDA wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

12. **Independent Consultant.** The parties expressly recognize that the relationship between the IDA and the Consultant is that of independent contractors, and that neither Consultant, nor any of its servants, agents, or employees shall ever be considered to be an agent, servant or employee of the IDA.

13. **Insurance.** Consultant shall obtain and maintain, at Consultant's expense, the following insurance and shall not commence Work hereunder until such insurance is obtained and provided to the IDA:

COMPREHENSIVE GENERAL LIABILITY: Consultant shall maintain commercial general liability (CGL) insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location/project in the amount of \$4,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury and advertising injury.

COMMERCIAL AUTOMOBILE LIABILITY INSURANCE: Consultant shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos.) The policy shall be endorsed to provide contractual liability coverage.

WORKERS' COMPENSATION: Coverage is to apply for all employees for statutory limits in compliance with the applicable state and federal laws.

Consultant shall furnish the IDA with Certificates of Insurance. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Hardee County Industrial Development Authority is to be specifically included as an additional insured on all policies except professional liability and Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30-days prior to said expiration date. All certificates of insurance must be on file with and approved by the IDA before the commencement of any work activities.

14. **Indemnification.** Subject to limitations of Florida law, the Consultant shall indemnify and hold harmless the IDA, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of the agreement. Consultant's liability for indemnification shall be limited to \$2,000,000.00. The terms and conditions of this paragraph shall survive the termination or expiration of this Agreement.

15. **Subcontracts.** For any specific Project, Consultant reserves the right to select

necessary subcontractors. Consultant shall require that each subcontractor agree to the provisions of this Agreement applicable to the work performed by such subcontractor. IDA retains the right to refuse a subcontractor for reasonable cause. IDA shall not be obligated to pay any subcontractor under any circumstance. Consultant shall be responsible to IDA for the negligent acts and omissions of all its employees and all subcontractors, their agents and employees, and all other persons performing any of the Work by, through, or under Consultant.

16. **Notices.** Whenever any notice is required or permitted by this Agreement to be given, such notice shall be by certified mail or overnight delivery addressed to:

If to Consultant:

Kimley-Horn and Associates, Inc.
Attn: Robert "Bo" Conerly, P.E.
109 South Kentucky Avenue
Lakeland, FL 33801
bo.conerly@kimley-horn.com
863-701-8702

If to IDA:

Hardee County Industrial Development Authority
c/o The Development Group
attn: Denise Grimsley, CEO
107 East Main Street
P.O. Box 458
Wauchula, FL 33873
863-773-3030

Notice shall be considered given when deposited with the U.S. Postal Service or commercial carrier, postage prepaid. Each party will be responsible for notifying the other of any change in their address.

17. **Permits and Licensure.** Consultant shall be and maintain for the duration of this Agreement qualifications under Chapter 481, Florida Statutes to practice architecture or shall hold and maintain a current certificate as a registered engineer under Chapter 471, Florida Statutes to practice engineering. Consultant shall hold all professional or business licenses, registrations, certifications, necessary to complete the services, and shall require the same of its subcontractors, agents, and those performing work. Consultant shall be responsible for assisting the IDA to apply for all applicable Federal, State, County, and City licenses and permits and paying local business tax as may be appropriate. Consultant shall pay all sales, consumer, use and other similar taxes required by law resulting from the Work, and such costs shall not be considered in addition to the contract price.

18. **Laws and Regulations.** All services and Work shall be performed pursuant to applicable law, rule, or regulation and pursuant to applicable policy of the IDA. Consultant shall comply with all laws, ordinances, rules, orders and regulations relating to performance of the work and the protection of persons and property.

19. **Public Records.** Consultant shall comply with public records laws, including Chapter 119, Florida Statutes. Consultant shall: (1) Keep and maintain public records required by the IDA to perform the services herein. (2) Upon request, provide the IDA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law. (3) Ensure that public records that are exempt or confidential and exempt from public

records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Consultant does not transfer the records to IDA. (4) Upon completion of the contract, transfer, at no cost, to IDA all public records in possession of the Consultant or keep and maintain public records required by IDA to perform the service. If the Consultant transfers all public records to IDA upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to IDA, upon request, in a format that is compatible with the information technology systems of IDA.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-773-3030 or kristi.schierling@thedevelopmentgroup.net or 107 EAST MAIN STREET, PO BOX 458, WAUCHULA, FLORIDA 33873.

20. **OFAC List.** Consultant hereby represents, warrants and covenants to IDA that neither Consultant nor any person or entity that directly or indirectly (i) controls Consultant or (ii) has an ownership interest in Consultant of twenty-five percent (25%) or more, appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

21. **Public Entity Crime.** Consultant certifies that neither it nor an affiliate have been placed on the convicted vendor list following conviction for a public entity crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. (*Section 287.133(3)(a), Florida Statutes.*)

22. **Discrimination.** Consultant certifies that neither it nor an affiliate have been placed on the discriminatory vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. (*Section 287.134, Florida Statutes.*)

23. **Scrutinized Companies.** Consultant certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that it does not have business operations in Cuba or Syria, and that the respondent is not participating in a boycott of Israel. Respondent shall immediately notify IDA if its certification set forth in this paragraph changes at any point during the proposal process or term of any contract. IDA may terminate any contract if respondent is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria or is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel. (*Section 287.135, Florida Statutes.*)

24. **Prohibition Against Contingent Fees.** The architect (or registered surveyor and mapper or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered surveyor and mapper, or professional engineer, as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the architect (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement. (*Section 287.055(6)(a), Florida Statutes.*)

25. **No Continuation of Services.** A design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package. (*Section 287.055(9), Florida Statutes.*)

26. **E-Verify.** Pursuant to Section 448.095, Florida Statutes, Consultant shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. If Consultant enters into an agreement with a subcontractor, Consultant shall require the subcontractor to provide an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and the Consultant shall maintain a copy of such affidavit for the duration of the agreement.

27. **Governing Law and Venue.** This Agreement shall be interpreted under and its performance governed by the laws of the State of Florida without regard to conflict of law principles. In the event of litigation between the parties related to or arising out of this Agreement, venue shall be in Hardee County, Florida and no other place, and Florida law shall apply. IDA does not waive sovereign immunity, and its liability, if any, is limited by law, including Section 768.28, Florida Statutes.

28. **Prevailing Party.** Subject to the limitations of Section 768.28, Florida Statutes, in any action brought by either party for the interpretation or enforcement of the obligations of the other party, including IDA's right to indemnification, the prevailing party shall be entitled to recover from the losing party all reasonable attorneys' fees, paralegal fees, court and other costs, whether incurred before or during litigation, on appeal, in bankruptcy, or in post judgment collections.

29. **Assignment.** Consultant shall not assign, in whole or in part, this Agreement or any monies due or to become due hereunder, without the written consent of IDA.

30. **Severability.** Each and every provision of law and clause required by law to be inserted in this document shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included, and if, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon application of either party, the contract shall forthwith be physically amended to make such insertion or correction.

31. **Binding Effect.** This contract shall bind and inure to the benefit of the successors and assigns of each of the parties.

32. **Time.** The Consultant shall perform its services as expeditiously as is consistent with the mutually-agreed-upon schedules for each Project.

33. **Multiple Originals; Amendment.** This Agreement is executed in multiple copies, each of which shall be deemed an original. No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof, and duly executed by each party.

34. PURSUANT TO FS 558.0035, EMPLOYEES OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT.

AGREED TO as of the date last executed as set forth below.

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: _____
Lee Mikell, Chair

Date: _____

Attest:

By: _____

Witnesses as to Consultant:

**KIMLEY-HORN AND ASSOCIATES,
INC., a North Carolina corporation**

Witness #1: Richard Mills

By: _____

Print Name: RM

Name: Mark E. Wilson, P.E.

Witness #2: Cheryl L. Bauman

Title: Senior Vice President

Print Name: Cheryl Bauman

Date: 9/12/2023



HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

NOTICE TO PROCEED / CHANGE ORDER

DATE: _____

TO: _____

CONTRACT: Professional Services on Continuing Basis (IDA RFQ #2023-02)

[] This document constitutes your Notice to Proceed with professional services as to the following described Project: _____

[] This document constitutes a CHANGE ORDER regarding: _____

Additional Instructions: _____

Please review the Contract Documents for further details. If you have any questions, please contact: _____ at 863-773-3030.

Sincerely,

Denise Grimsley
CEO, The Development Group

Received, Acknowledged, and Accepted:

By: _____

Name: _____

Date: _____

Exhibit "A"

Consultant's Hourly Rates and Expense Schedule

Kimley-Horn and Associates, Inc.

Hourly Labor Rate Schedule

| Classification | Rate |
|--------------------------|---------------|
| Analyst I | \$130 - \$160 |
| Analyst II | \$170 - \$200 |
| Professional | \$195 - \$230 |
| Senior Professional I | \$245 - \$315 |
| Senior Professional II | \$340 - \$410 |
| Senior Technical Support | \$115 - \$290 |
| Technical Support | \$105 - \$165 |
| Support Staff | \$85 - \$145 |

Effective through June 30, 2024

Subject to annual adjustment thereafter (to be submitted for approval).

Internal Reimbursable Expenses will be charged at 5% of Labor Billings

External Reimbursable Expenses will be charged at 15% mark-up, or per the Contract

Sub-Consultants will be billed per the Contract

**CONTRACT FOR CONSTRUCTION MANAGEMENT AT RISK SERVICES
ON A CONTINUING BASIS**

THIS AGREEMENT is made by and between the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a dependent special district with an address at 107 E. Main Street, Wauchula, Florida 33873 (the “IDA”) and **HALFACRE CONSTRUCTION COMPANY**, a Florida corporation, with an address at 7015 Professional Parkway East, Sarasota, Florida 34240 (herein called “Contractor”).

1. **Premise.**

1.1. IDA solicited responses to RFQ 2023-01 for a qualified construction management firm to provide construction management services at risk on a continuing basis pursuant to Section 287.055, Florida Statutes. IDA would like for Contractor to perform the work and Contractor would like to do so on the terms and conditions set forth herein.

1.2. Contractor will provide construction management services to the IDA on an as-needed basis, based upon notices to proceed to be issued by the IDA (each a “Project”). Contractor understands and agrees that this contract does not guarantee award of a specific Project nor exclusivity to perform services.

1.3. The “Contract Documents” that constitute the entire agreement between the IDA and Contractor shall consist of: this Agreement and all exhibits hereto, RFQ 2023-01, IDA issued Notices to Proceed, proposals (including Guaranteed Maximum Price) submitted by Contractor and accepted by IDA, written amendments to this Agreement that are validly executed by IDA and Contractor, and IDA approved change orders.

1.4. Contractor represents that it is thoroughly familiar with and understands the requirements of performing construction management at-risk services and that it is experienced in the administration and construction of projects of the type and scope contemplated. Contractor represents to IDA that Contractor has all necessary construction education, skill, knowledge, and experience required to perform services and will maintain, at all times during the term of this Agreement, such personnel on its staff to provide the services contemplated hereby within the time periods required hereby. In addition, Contractor represents that it has, and all of the subcontractors performing services under this Agreement will have, all applicable licenses required by the State of Florida to perform such services.

2. **Work.**

2.1. Contractor, in consideration of the premises and mutual covenants herein contained, agrees to furnish at its own cost and expense, all labor, tools, materials, equipment, superintendence, security, insurance, testing, and all other accessories and services necessary to provide professional construction management at risk services (herein collectively called the “Work”).

2.2. The scope of construction management services will be identified on a project-by-

project basis and will vary depending on project needs. A project scope may include, but is not limited to, alterations and additions to existing facilities, renovations, site improvements, new construction, facility demolition, utility upgrades and improvements, electrical system upgrades, mechanical system upgrades, and plumbing system upgrades. All services shall be performed pursuant to applicable law, rule, or regulation and pursuant to applicable policy of the IDA. IDA reserves the right to add or delete, at any time, any or all tasks or services. No self-performance of trade construction work by Contractor is permitted. General construction management services shall be provided by Contractor incidental to the activities of each phase.

2.3. A Notice to Proceed issued by IDA is required to begin each Project and no work shall begin and no fees/costs shall be incurred as to a particular Project (or phase of a Project, if applicable) unless and until the IDA issues an applicable Notice to Proceed. IDA is under no obligation to issue any Notice to Proceed. If IDA does not issue a Notice to Proceed, there will be no recovery of any monetary awards by Contractor, including cost and/or anticipated profit. For avoidance of any doubt, a Notice to Proceed is subject to the terms and conditions of this Contract and becomes a Contract Document upon its issuance.

2.4. A Notice to Proceed may be issued on behalf of the IDA by the Chief Executive Office of The Hardee County Economic Development Council, Inc., d/b/a The Development Group, or her authorized designee (the "IDA Project Manager").

3. **Contract Price.** Contractor's standard hourly rates and expenses are attached hereto as Exhibit "A". Such rates and expenses shall remain in effect through the duration of the contract period. Mileage and man-hours spent in travel time are incidental to the Work and are not an extra compensable expense. Compensation for a specific Project shall be as set forth in the Guaranteed Maximum Price proposal accepted by IDA following issuance of a Notice to Proceed.

4. **Guaranteed Maximum Price.**

4.1. Contractor agrees to furnish the Work required for completion of a Project on a Guaranteed Maximum Price basis. Contractor shall prepare written a Guaranteed Maximum Price ("GMP") for the Project activities in negotiation with IDA. If a GMP proposal cannot be successfully negotiated in a timely fashion, then either party may provide written notice of termination of this Agreement and neither party shall thereafter have any further obligation under this Agreement. In such an event, the IDA may proceed with the Project using a party or parties other than Contractor.

4.2. The GMP shall be itemized and shall include all construction, material, labor, and management cost, in detail, per phase (as applicable), and shall also include the complete and total cost of the Project in accordance with all requirements of the applicable Contract Documents. The GMP shall also set forth the substantial completion date of the Project, which shall be a definite date, and the estimated final completion date. The term "substantial completion" shall mean when the Project is sufficiently complete so that IDA can enjoy beneficial use or occupancy of the Project and can utilize it for its intended purpose. Any change in the GMP shall require written approval of IDA.

4.3. Once the GMP proposal is accepted by IDA, the Contractor shall be entitled to no increase in the GMP unless (i) the increase is due to substantial and unexpected enlargement of the scope of the Project and (ii) Contractor provided written notice to IDA regarding the impact of the adjusted scope to the cost and time of the Project and (iii) IDA has authorized the increase by written change order. Except as set forth in the immediately preceding sentence, all costs or expenses that exceed the GMP shall be borne by the Contractor.

5. **Payment.**

5.1. On or about the first day of each month, Contractor shall make application for payment based upon percentages of completion in the amount of ninety percent (90%) of the Work completed up to the last day of the previous month, less the aggregate of previous payments. The remaining ten percent (10%) of the Work completed shall be retainage held by IDA until final completion of the Project. Once the Project has reached fifty percent (50%) completion as defined in the GMP, the retainage on future payments shall be five percent (5%).

5.2. The IDA Project Manager must approve each payment request. Each payment application shall: (i) detail an explanation of what work was completed by each entity requesting payment; (ii) detail an estimate of the percentage of work performed by any subcontractor in relation to the entire scope of work contained in the subcontractor's contract with Contractor; (iii) include a certification by Contractor that the work performed was in complete accordance with the Contract Documents; (iv) include a certification that the amount of the invoice is accurate in relation to the work performed under any subcontractor contract; and (v) include executed partial and/or final lien waivers from all suppliers and subcontractors.

5.3. Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver to IDA a complete release of all liens arising out of this Agreement, or receipts in full in lieu thereof, and an affidavit that so far as the Contractor has knowledge or information the releases and receipts include all the labor and materials for which a lien could be filed; but the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the IDA's legal counsel to indemnify the IDA against any lien. If any lien remains unsatisfied after all payment are made, Contractor shall refund to the IDA all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorneys' fee.

6. **Term and Termination.** The term of this Agreement shall be for one-year and shall automatically renew on an annual basis unless sooner terminated as provided herein.

6.1. IDA may terminate this Agreement, in whole or in part, for the IDA's convenience upon 30 days written notice to Contractor. IDA may, upon written notice, terminate this Agreement, in whole or in part, at any time due to Contractor's failure to perform any material provision or portion of the Contract Documents. Upon receipt of a termination notice, services shall be immediately discontinued (unless the notice directs otherwise) and all plans and materials as may have been accumulated in performance of this Agreement, whether completed or in process, shall be delivered to the IDA.

6.2. If the termination is for the convenience of the IDA, an equitable adjustment in the contract price shall be made based on Work performed, but no amount shall be allowed for anticipated profit on unperformed services.

6.3. If the termination is due to Contractor's failure to fulfill its obligations, the IDA may take over the Work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to the IDA for any additional cost occasioned to the IDA thereby. If, after notice of termination for Contractor's failure to fulfill contract obligations, it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the IDA. In such event, adjustment in the contract price shall be made as provided in this Agreement.

6.4. The rights and remedies of the IDA provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

7. **Commencement and Completion of Work.** Contractor hereby agrees to commence Work within ten (10) days from receipt of a Notice to Proceed unless otherwise specified on the Notice to Proceed or otherwise agreed in writing by the IDA Project Manager. Contractor shall be solely responsible for the means, methods, and techniques utilized in the Work.

8. **Project Time.** The number of calendar days from the date on which the Notice to Proceed is issued by the IDA through the required substantial completion date of the Project as subsequently established in the GMP shall constitute the "Project Time." Contractor warrants that the Project shall be substantially complete within the Project Time, provided that there are no unreasonable and unanticipated delays in completion of the design documents, unusual and unreasonable delays in obtaining any approval from a State or local governing agency or authority, or other occurrences which would form the basis for an extension of the Project Time; provided, however, that Contractor shall promptly notify IDA in writing of all anticipated or actual delays. Further, Contractor shall notify IDA in writing of any deadline by which design documents, approvals, or other information from IDA is needed and shall do so sufficiently in advance of such deadline so that any delay can be avoided.

9. **Liquidated Damages.** In the event of any delay in achieving substantial completion of a Project resulting from any act or omission of Contractor, the Contractor shall pay the IDA the sum of five hundred dollars (\$500.00) per day for each and every calendar day of such delay in achieving substantial completion beyond the Project Time. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the IDA. When the IDA reasonably believes substantial completion will be inexcusably delayed, the IDA shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the IDA to be adequate to recover liquidated damages applicable to such delays.

10. **Change Orders.** The contract prices, IDA-approved GMP, and the Project Time may be changed only by a written change order executed by the IDA Project Manager. The IDA, without invalidating this Agreement, may order changes in the Work within the general scope of the Project consisting of additions, deletions, or other revisions, with the contract price and the

Project Time being adjusted accordingly.

10.1. The cost or credit to IDA resulting from a change order shall be determined in one or more of the following ways: (a) by mutual acceptance of a lump sum properly itemized; (b) by unit prices stated in the Contract Documents or subsequently agreed upon; or (c) by cost and a mutual acceptable fixed or percentage fee.

10.2. If none of the methods set forth in Section 10.1 is agreed upon, Contractor shall nonetheless promptly proceed with the Work involved. The costs or credits shall then be determined on the basis of Contractor's reasonable expenditures and savings. In such case, Contractor shall keep and present an itemized accounting together with appropriate supporting data. The amount of credit to be allowed by Contractor to IDA for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease as confirmed by Contractor's records.

10.3. If Contractor claims that additional cost or time is involved because of any unanticipated event outside of Contractor's control, Contractor shall make such claim solely as provided herein and failure to make a claim timely shall be a waiver of any such claim. If Contractor wishes to make a claim for an increase in the contract price, an extension in the Project Time or any change to the GMP, Contractor shall give IDA written notice thereof within seven (7) calendar days after occurrence of the event giving rise to such claim. This written notice shall be given by Contractor before proceeding to execute Work resulting from the event, except in an emergency endangering life or property in which case Contractor shall proceed as necessary under the circumstances. No change orders for time extension for rain or other adverse weather conditions, unless the condition is unusual or unseasonable for the time of year, shall be authorized.

11. **Inspection, Correction, and Warranty.** Contractor shall notify the IDA Project Manager of completion of each phase of the Project within twenty-four hours after such completion unless otherwise agreed. The IDA Project Manager or designee will inspect the work and, if he/she finds that it has not been satisfactorily done, the Contractor shall cause the work to be promptly corrected at no cost to IDA. However, Contractor shall be responsible for the technical accuracy of the services it performs and documents it prepares, and neither IDA nor its agents shall be responsible for discovering deficiencies in such services or documents. Acceptance of the Work and final payment shall not relieve Contractor of the obligation to remedy Work that does not comply with the Contract Documents. For avoidance of any doubt, the Contractor shall be responsible for the failure of any subcontractors to carry out work in accordance with the applicable Contract Documents. Contractor shall immediately cause defective work to be corrected at no expense to IDA. If, within three years after final completion of a subcontractor's work on the Project, the work is found to be defective or not in accordance with the applicable Contract Documents, the Contractor shall cause such work to be corrected promptly upon receipt of written notice from IDA. The obligations set forth in this paragraph shall survive final payment to Contractor and the termination of this Agreement. The warranties provided in this section shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

12. **Performance.** Contractor shall, in good workmanlike manner, perform all Work.

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Contractor shall not bid on or perform any of the trade construction work or professional services; this restriction includes entities in which Contractor or any of its principals or their family members hold an ownership interest or to which Contractor or any of its principals or their family members would receive any special private benefit. Should the Contractor fail to provide prudent and competent professional service, the IDA may notify the Contractor in writing stating the IDA's intention to terminate the Agreement and stating the reasons therefore. Unless Contractor remedies such default or has made satisfactory arrangements with the IDA for such remedy within five (5) business days after service of said notice upon Contractor, this Agreement may be terminated by the IDA. In the event of such termination, the IDA may take over and complete the work at the expense of the Contractor. Contractor shall be liable to the IDA for any excess costs the IDA incurs.

13. **Independent Contractor.** The parties expressly recognize that the relationship between the IDA and the Contractor is that of independent contractors, and that neither Contractor, nor any of its servants, agents, or employees shall ever be considered to be an agent, servant or employee of the IDA.

14. **Insurance.** Contractor shall obtain and maintain, at Contractor's expense, the following insurance and shall not commence Work hereunder until such insurance is obtained and provided to the IDA:

COMPREHENSIVE GENERAL LIABILITY: Contractor shall maintain commercial general liability (CGL) insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location/project in the amount of \$4,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury and advertising injury.

COMMERCIAL AUTOMOBILE LIABILITY INSURANCE: Contractor shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos.) The policy shall be endorsed to provide contractual liability coverage.

WORKERS' COMPENSATION: Coverage is to apply for all employees for statutory limits in compliance with the applicable state and federal laws.

Contractor shall furnish the IDA with Certificates of Insurance. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Hardee County Industrial Development Authority is to be specifically included as an additional insured on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30-days prior to said expiration date. All certificates of insurance must be on file with and approved by the IDA before the commencement of any work

activities.

15. **Indemnification.** Contractor shall, in addition to any other obligation to indemnify IDA to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the IDA, its directors, employees, agents and volunteers, specifically including The Development Group and its directors, employees, agents, and volunteers, from and against all claims, actions, liabilities, losses (including economic losses), costs, including attorneys' fees and all costs of litigation, and judgments of every name and description arising out of or incidental to the performance of this contract, unless caused by the sole negligence of the IDA, its directors, employees, representatives, agents, or volunteers. Any cost or expenses, including attorneys' fees (including appellate, bankruptcy or patent council fees), incurred by the IDA to enforce this agreement shall be borne by the Contractor. This indemnification shall also cover all claims brought against the IDA, its directors, employees, representatives, agents, or volunteers, specifically including The Development Group and its directors, employees, agents, and volunteers, by any employee of Contractor, subcontractor, or anyone directly or indirectly employed by any of them. The Contractor's obligation under this paragraph shall be limited to \$10,000,000.00 and shall not be limited in any way to the agreed upon contract price or the Contractor's limit of all services, obligations, and duties provided for in this contract, or in the event of termination of the contract for any reason, the terms and conditions of this paragraph shall survive indefinitely.

16. **Subcontracts.** A portion of the Project may be performed under subcontracts, and Contractor shall require that each subcontractor agree to the provisions of this Agreement applicable to the work performed by such subcontractor, including, but not limited to, insurance requirements (except for excess/umbrella coverage), compliance with laws, and indemnification of IDA. IDA retains the right to refuse a subcontractor for reasonable cause, to review Contractor's agreements with subcontractors upon request, and require changes to such subcontractor agreements as IDA deems necessary. IDA shall not be obligated to pay any subcontractor under any circumstance. Contractor shall be responsible to IDA for the acts and omissions of all its employees and all subcontractors, their agents and employees, and all other persons performing any of the Work by, through, or under Contractor.

17. **Notices.** Whenever any notice is required or permitted by this Agreement to be given, such notice shall be by certified mail or overnight delivery addressed to:

If to Contractor:

Halfacre Construction Company
Attn: Jack Cox
7015 Professional Parkway East
Sarasota, Florida 34240
Phone: 941-907-9099
jack.cox@halfacreco.com

If to IDA:

Hardee County Industrial Development Authority
c/o The Development Group
attn: Denise Grimsley, CEO
107 East Main Street
P.O. Box 458
Wauchula, FL 33873
863-773-3030

Notice shall be considered given when deposited with the U.S. Postal Service or commercial carrier, postage prepaid. Each party will be responsible for notifying the other of any change in

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their address.

18. **Permits and Licensure.** Contractor shall hold all licenses, registrations, certifications, or permits necessary to complete the services, and shall require the same of its subcontractors, agents, and those performing work. Contractor shall be responsible for acquiring all applicable Federal, State, County, and City licenses and permits and pay local business tax as may be appropriate. Contractor shall pay all sales, consumer, use and other similar taxes required by law resulting from the Work, and such costs shall not be considered in addition to the contract price.

19. **Laws and Regulations.** All services and Work shall be performed pursuant to applicable law, rule, or regulation and pursuant to applicable policy of the IDA. Contractor shall comply with all laws, ordinances, rules, orders and regulations relating to performance of the work and the protection of persons and property.

20. **Safety and Health Regulations.**

20.1. Contractor shall comply with the Department of Labor Safety and Health Regulations promulgated for construction under the Occupational Safety and Health Act and such other rules and regulations as may be applicable to this Project. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (a) all employees on the Work and all other persons who may be affected thereby; (b) all the Work, all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of Contractor or any of its subcontractors or sub-subcontractors; and (c) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designed for removal, relocation, or replacement in the course of construction.

20.2. Contractor shall ensure the sites upon which work is performed is maintained in a clean and orderly condition, free from all refuse, rubbish, scrap materials, and debris. Any injury to persons or damage to property shall be immediately repaired or remedied by Contractor, subject to the limits of indemnification provided by Contractor herein, and Contractor further agrees that IDA may withhold payment hereunder until the damage is repaired or the property is replaced. Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property. Contractor shall ensure that all reasonable safeguards for safety and protection are erected and maintained as required by existing conditions and progress of the Work.

21. **Public Records.** Contractor shall comply with public records laws, including Chapter 119, Florida Statutes. Contractor shall: (1) Keep and maintain public records required by the IDA to perform the services herein. (2) Upon request, provide the IDA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law. (3) Ensure that public records that are exempt or confidential and exempt from public

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*Construction Management At Risk
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records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to IDA. (4) Upon completion of the contract, transfer, at no cost, to IDA all public records in possession of the Contractor or keep and maintain public records required by IDA to perform the service. If the Contractor transfers all public records to IDA upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to IDA, upon request, in a format that is compatible with the information technology systems of IDA.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-773-3030 or kristi.schierling@thedevelopmentgroup.net or 107 EAST MAIN STREET, PO BOX 458, WAUCHULA, FLORIDA 33873.

22. **OFAC List.** Contractor hereby represents, warrants and covenants to IDA that neither Contractor nor any person or entity that directly or indirectly (i) controls Contractor or (ii) has an ownership interest in Contractor of twenty-five percent (25%) or more, appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

23. **Public Entity Crime.** Contractor certifies that neither it nor an affiliate have been placed on the convicted vendor list following conviction for a public entity crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. (*Section 287.133(3)(a), Florida Statutes.*)

24. **Discrimination.** Contractor certifies that neither it nor an affiliate have been placed on the discriminatory vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. (*Section 287.134, Florida Statutes.*)

25. **Scrutinized Companies.** Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that it does not have business operations in Cuba or Syria, and that the respondent is not participating in a boycott of Israel. Respondent shall immediately notify IDA if its certification set forth in this paragraph changes at any point during the proposal process or term of any contract. IDA may terminate any contract if respondent is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria or is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel. (*Section 287.135, Florida Statutes.*)

26. **E-Verify.** Pursuant to Section 448.095, Florida Statutes, Contractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. If Contractor enters into an agreement with a subcontractor, Contractor shall require the subcontractor to provide an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and the Contractor shall maintain a copy of such affidavit for the duration of the agreement.

27. **Governing Law and Venue.** This Agreement shall be interpreted under and its performance governed by the laws of the State of Florida without regard to conflict of law principles. In the event of litigation between the parties related to or arising out of this Agreement, venue shall be in Hardee County, Florida and no other place, and Florida law shall apply. IDA does not waive sovereign immunity, and its liability, if any, is limited by law, including Section 768.28, Florida Statutes.

28. **Prevailing Party.** Subject to the limitations of Section 768.28, Florida Statutes, in any action brought by either party for the interpretation or enforcement of the obligations of the other party, including IDA's right to indemnification, the prevailing party shall be entitled to recover from the losing party all reasonable attorneys' fees, paralegal fees, court and other costs, whether incurred before or during litigation, on appeal, in bankruptcy, or in post judgment collections.

29. **Assignment.** Contractor shall not assign, in whole or in part, this Agreement or any monies due or to become due hereunder, without the written consent of IDA.

30. **Severability.** Each and every provision of law and clause required by law to be inserted in this document shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included, and if, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon application of either party, the contract shall forthwith be physically amended to make such insertion or correction.

31. **Binding Effect.** This contract shall bind and inure to the benefit of the successors and assigns of each of the parties.

32. **Time.** Time is of the essence of this Agreement.

33. **Multiple Originals; Amendment.** This Agreement is executed in multiple copies, each of which shall be deemed an original. No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof, and duly executed by each party.

AGREED TO as of the date last executed as set forth below.

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

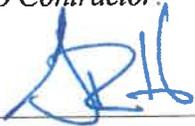
By: _____
Lee Mikell, Chair

Date: _____

Attest:

By: _____

Witnesses as to Contractor:

Witness #1: 

Print Name: GREG R. WITT

Witness #2: 

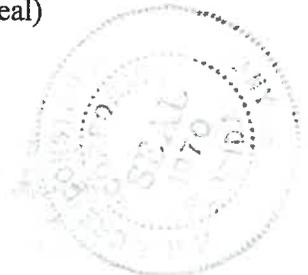
Print Name: Reed Giasson

**HALFACRE CONSTRUCTION
COMPANY, a Florida corporation**

By: 
Jack Cox, President

Date: 9/14/23

(corporate seal)



HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

NOTICE TO PROCEED / CHANGE ORDER

DATE: _____

TO: _____

CONTRACT: Construction Management Services on Continuing Basis (IDA RFQ #2023-01)

This document constitutes your Notice to Proceed with the following:

- Pre-Construction
- Procurement (Bid and Awards)
- Construction
- Close-Out

for a project described as: _____

This document constitutes a CHANGE ORDER regarding: _____

Additional Instructions (*including identification of design professionals or other consultants*):

Please review the Contract Documents for further details. If you have any questions, please contact: _____ at 863-773-3030.

Sincerely,

Denise Grimsley
CEO, The Development Group

Exhibit "A"

Contractor's Hourly Rates and Expense Schedule

| | Base Rate | Burden Rate | Total |
|--------------------------------|------------------------|-------------|-------------|
| Project Executive: | \$95.00/hr | 48% | \$140.60/hr |
| Project Manager: | \$75.00/hr | 48% | \$111.00/hr |
| Assistant Project Manager: | \$45.00/hr | 48% | \$ 66.60/hr |
| Jobsite Superintendent: | \$65.00/hr | 48% | \$ 96.20/hr |
| Assistant Superintendent: | \$40.00/hr | 48% | \$ 59.20/hr |
| Project Accountant: | \$30.00/hr | 48% | \$ 44.40/hr |
| Auto Expense: | \$290.00/wk | | \$290.00/wk |
| General Liability Insurance: | 0.2% of total contract | | |
| Performance and Payment Bonds: | 1.5% of total contract | | |

**CONTRACT FOR CONSTRUCTION MANAGEMENT AT RISK SERVICES
ON A CONTINUING BASIS**

THIS AGREEMENT is made by and between the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a dependent special district with an address at 107 E. Main Street, Wauchula, Florida 33873 (the “IDA”) and **SEMCO CONSTRUCTION, INC.**, a Florida corporation, with an address at 205 Century Blvd, Bartow, Florida 33830 (herein called “Contractor”).

1. **Premise.**

1.1. IDA solicited responses to RFQ 2023-01 for a qualified construction management firm to provide construction management services at risk on a continuing basis pursuant to Section 287.055, Florida Statutes. IDA would like for Contractor to perform the work and Contractor would like to do so on the terms and conditions set forth herein.

1.2. Contractor will provide construction management services to the IDA on an as-needed basis, based upon notices to proceed to be issued by the IDA (each a “Project”). Contractor understands and agrees that this contract does not guarantee award of a specific Project nor exclusivity to perform services.

1.3. The “Contract Documents” that constitute the entire agreement between the IDA and Contractor shall consist of: this Agreement and all exhibits hereto, RFQ 2023-01, IDA issued Notices to Proceed, proposals (including Guaranteed Maximum Price) submitted by Contractor and accepted by IDA, written amendments to this Agreement that are validly executed by IDA and Contractor, and IDA approved change orders.

1.4. Contractor represents that it is thoroughly familiar with and understands the requirements of performing construction management at-risk services and that it is experienced in the administration and construction of projects of the type and scope contemplated. Contractor represents to IDA that Contractor has all necessary construction education, skill, knowledge, and experience required to perform services and will maintain, at all times during the term of this Agreement, such personnel on its staff to provide the services contemplated hereby within the time periods required hereby. In addition, Contractor represents that it has, and all of the subcontractors performing services under this Agreement will have, all applicable licenses required by the State of Florida to perform such services.

2. **Work.**

2.1. Contractor, in consideration of the premises and mutual covenants herein contained, agrees to furnish at its own cost and expense, all labor, tools, materials, equipment, superintendence, security, insurance, testing, and all other accessories and services necessary to provide professional construction management at risk services (herein collectively called the “Work”).

2.2. The scope of construction management services will be identified on a project-by-

project basis and will vary depending on project needs. A project scope may include, but is not limited to, alterations and additions to existing facilities, renovations, site improvements, new construction, facility demolition, utility upgrades and improvements, electrical system upgrades, mechanical system upgrades, and plumbing system upgrades. All services shall be performed pursuant to applicable law, rule, or regulation and pursuant to applicable policy of the IDA. IDA reserves the right to add or delete, at any time, any or all tasks or services. No self-performance of trade construction work by Contractor is permitted. General construction management services shall be provided by Contractor incidental to the activities of each phase.

2.3. A Notice to Proceed issued by IDA is required to begin each Project and no work shall begin and no fees/costs shall be incurred as to a particular Project (or phase of a Project, if applicable) unless and until the IDA issues an applicable Notice to Proceed. IDA is under no obligation to issue any Notice to Proceed. If IDA does not issue a Notice to Proceed, there will be no recovery of any monetary awards by Contractor, including cost and/or anticipated profit. For avoidance of any doubt, a Notice to Proceed is subject to the terms and conditions of this Contract and becomes a Contract Document upon its issuance.

2.4. A Notice to Proceed may be issued on behalf of the IDA by the Chief Executive Office of The Hardee County Economic Development Council, Inc., d/b/a The Development Group, or her authorized designee (the "IDA Project Manager").

3. **Contract Price.** Contractor's standard hourly rates and expenses are attached hereto as Exhibit "A". Such rates and expenses shall remain in effect through the duration of the contract period. Mileage and man-hours spent in travel time are incidental to the Work and are not an extra compensable expense. Compensation for a specific Project shall be as set forth in the Guaranteed Maximum Price proposal accepted by IDA following issuance of a Notice to Proceed.

4. **Guaranteed Maximum Price.**

4.1. Contractor agrees to furnish the Work required for completion of a Project on a Guaranteed Maximum Price basis. Contractor shall prepare written a Guaranteed Maximum Price ("GMP") for the Project activities in negotiation with IDA. If a GMP proposal cannot be successfully negotiated in a timely fashion, then either party may provide written notice of termination of this Agreement and neither party shall thereafter have any further obligation under this Agreement. In such an event, the IDA may proceed with the Project using a party or parties other than Contractor.

4.2. The GMP shall be itemized and shall include all construction, material, labor, and management cost, in detail, per phase (as applicable), and shall also include the complete and total cost of the Project in accordance with all requirements of the applicable Contract Documents. The GMP shall also set forth the substantial completion date of the Project, which shall be a definite date, and the estimated final completion date. The term "substantial completion" shall mean when the Project is sufficiently complete so that IDA can enjoy beneficial use or occupancy of the Project and can utilize it for its intended purpose. Any change in the GMP shall require written approval of IDA.

4.3. Once the GMP proposal is accepted by IDA, the Contractor shall be entitled to no increase in the GMP unless (i) the increase is due to substantial and unexpected enlargement of the scope of the Project and (ii) Contractor provided written notice to IDA regarding the impact of the adjusted scope to the cost and time of the Project and (iii) IDA has authorized the increase by written change order. Except as set forth in the immediately preceding sentence, all costs or expenses that exceed the GMP shall be borne by the Contractor.

5. Payment.

5.1. On or about the first day of each month, Contractor shall make application for payment based upon percentages of completion in the amount of ninety-five percent (95%) of the Work completed up to the last day of the previous month, less the aggregate of previous payments. The remaining five percent (5%) of the Work completed shall be retainage held by IDA until final completion of the Project.

5.2. The IDA Project Manager must approve each payment request. Each payment application shall: (i) detail an explanation of what work was completed by each entity requesting payment; (ii) detail an estimate of the percentage of work performed by any subcontractor in relation to the entire scope of work contained in the subcontractor's contract with Contractor; (iii) include a certification by Contractor that the work performed was in complete accordance with the Contract Documents; (iv) include a certification that the amount of the invoice is accurate in relation to the work performed under any subcontractor contract; and (v) include executed partial and/or final lien waivers from all suppliers and subcontractors.

5.3. Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver to IDA a complete release of all liens arising out of this Agreement, or receipts in full in lieu thereof, and an affidavit that so far as the Contractor has knowledge or information the releases and receipts include all the labor and materials for which a lien could be filed; but the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the IDA's legal counsel to indemnify the IDA against any lien. If any lien remains unsatisfied after all payment are made, Contractor shall refund to the IDA all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorneys' fee.

6. Term and Termination. The term of this Agreement shall be for one-year and shall automatically renew on an annual basis unless sooner terminated as provided herein.

6.1. IDA may terminate this Agreement, in whole or in part, for the IDA's convenience upon 30 days written notice to Contractor. IDA may, upon written notice, terminate this Agreement, in whole or in part, at any time due to Contractor's failure to perform any material provision or portion of the Contract Documents. Upon receipt of a termination notice, services shall be immediately discontinued (unless the notice directs otherwise) and all plans and materials as may have been accumulated in performance of this Agreement, whether completed or in process, shall be delivered to the IDA.

6.2. If the termination is for the convenience of the IDA, an equitable adjustment in the

contract price shall be made based on Work performed, but no amount shall be allowed for anticipated profit on unperformed services.

6.3. If the termination is due to Contractor's failure to fulfill its obligations, the IDA may take over the Work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to the IDA for any additional cost occasioned to the IDA thereby. If, after notice of termination for Contractor's failure to fulfill contract obligations, it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the IDA. In such event, adjustment in the contract price shall be made as provided in this Agreement.

6.4. The rights and remedies of the IDA provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

7. **Commencement and Completion of Work.** Contractor hereby agrees to commence Work within ten (10) days from receipt of a Notice to Proceed unless otherwise specified on the Notice to Proceed or otherwise agreed in writing by the IDA Project Manager. Contractor shall be solely responsible for the means, methods, and techniques utilized in the Work.

8. **Project Time.** The number of calendar days from the date on which the Notice to Proceed is issued by the IDA through the required substantial completion date of the Project as subsequently established in the GMP shall constitute the "Project Time." Contractor warrants that the Project shall be substantially complete within the Project Time, provided that there are no unreasonable and unanticipated delays in completion of the design documents, unusual and unreasonable delays in obtaining any approval from a State or local governing agency or authority, or other occurrences which would form the basis for an extension of the Project Time; provided, however, that Contractor shall promptly notify IDA in writing of all anticipated or actual delays. Further, Contractor shall notify IDA in writing of any deadline by which design documents, approvals, or other information from IDA is needed and shall do so sufficiently in advance of such deadline so that any delay can be avoided.

9. **Liquidated Damages.** In the event of any delay in achieving substantial completion of a Project resulting from any act or omission of Contractor, the Contractor shall pay the IDA the sum of five hundred dollars (\$500.00) per day for each and every calendar day of such delay in achieving substantial completion beyond the Project Time. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the IDA. When the IDA reasonably believes substantial completion will be inexcusably delayed, the IDA shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the IDA to be adequate to recover liquidated damages applicable to such delays.

10. **Change Orders.** The contract prices, IDA-approved GMP, and the Project Time may be changed only by a written change order executed by the IDA Project Manager. The IDA, without invalidating this Agreement, may order changes in the Work within the general scope of the Project consisting of additions, deletions, or other revisions, with the contract price and the Project Time being adjusted accordingly.

10.1. The cost or credit to IDA resulting from a change order shall be determined in one or more of the following ways: (a) by mutual acceptance of a lump sum properly itemized; (b) by unit prices stated in the Contract Documents or subsequently agreed upon; or (c) by cost and a mutual acceptable fixed or percentage fee.

10.2. If none of the methods set forth in Section 10.1 is agreed upon, Contractor shall nonetheless promptly proceed with the Work involved. The costs or credits shall then be determined on the basis of Contractor's reasonable expenditures and savings. In such case, Contractor shall keep and present an itemized accounting together with appropriate supporting data. The amount of credit to be allowed by Contractor to IDA for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease as confirmed by Contractor's records.

10.3. If Contractor claims that additional cost or time is involved because of any unanticipated event outside of Contractor's control, Contractor shall make such claim solely as provided herein and failure to make a claim timely shall be a waiver of any such claim. If Contractor wishes to make a claim for an increase in the contract price, an extension in the Project Time or any change to the GMP, Contractor shall give IDA written notice thereof within seven (7) calendar days after occurrence of the event giving rise to such claim. This written notice shall be given by Contractor before proceeding to execute Work resulting from the event, except in an emergency endangering life or property in which case Contractor shall proceed as necessary under the circumstances. No change orders for time extension for rain or other adverse weather conditions, unless the condition is unusual or unseasonable for the time of year, shall be authorized.

11. **Inspection, Correction, and Warranty.** Contractor shall notify the IDA Project Manager of completion of each phase of the Project within twenty-four hours after such completion unless otherwise agreed. The IDA Project Manager or designee will inspect the work and, if he/she finds that it has not been satisfactorily done, the Contractor shall cause the work to be promptly corrected at no cost to IDA. However, Contractor shall be responsible for the technical accuracy of the services it performs and documents it prepares, and neither IDA nor its agents shall be responsible for discovering deficiencies in such services or documents. Acceptance of the Work and final payment shall not relieve Contractor of the obligation to remedy Work that does not comply with the Contract Documents. For avoidance of any doubt, the Contractor shall be responsible for the failure of any subcontractors to carry out work in accordance with the applicable Contract Documents. Contractor shall immediately cause defective work to be corrected at no expense to IDA. If, within three years after final completion of a subcontractor's work on the Project, the work is found to be defective or not in accordance with the applicable Contract Documents, the Contractor shall cause such work to be corrected promptly upon receipt of written notice from IDA. The obligations set forth in this paragraph shall survive final payment to Contractor and the termination of this Agreement. The warranties provided in this section shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

12. **Performance.** Contractor shall, in good workmanlike manner, perform all Work. Contractor shall not bid on or perform any of the trade construction work or professional services;

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Continuing Contract*

this restriction includes entities in which Contractor or any of its principals or their family members hold an ownership interest or to which Contractor or any of its principals or their family members would receive any special private benefit. Should the Contractor fail to provide prudent and competent professional service, the IDA may notify the Contractor in writing stating the IDA's intention to terminate the Agreement and stating the reasons therefore. Unless Contractor remedies such default or has made satisfactory arrangements with the IDA for such remedy within five (5) business days after service of said notice upon Contractor, this Agreement may be terminated by the IDA. In the event of such termination, the IDA may take over and complete the work at the expense of the Contractor. Contractor shall be liable to the IDA for any excess costs the IDA incurs.

13. **Independent Contractor.** The parties expressly recognize that the relationship between the IDA and the Contractor is that of independent contractors, and that neither Contractor, nor any of its servants, agents, or employees shall ever be considered to be an agent, servant or employee of the IDA.

14. **Insurance.** Contractor shall obtain and maintain, at Contractor's expense, the following insurance and shall not commence Work hereunder until such insurance is obtained and provided to the IDA:

COMPREHENSIVE GENERAL LIABILITY: Contractor shall maintain commercial general liability (CGL) insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location/project in the amount of \$4,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury and advertising injury.

COMMERCIAL AUTOMOBILE LIABILITY INSURANCE: Contractor shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos.) The policy shall be endorsed to provide contractual liability coverage.

WORKERS' COMPENSATION: Coverage is to apply for all employees for statutory limits in compliance with the applicable state and federal laws.

Contractor shall furnish the IDA with Certificates of Insurance. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Hardee County Industrial Development Authority is to be specifically included as an additional insured on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30-days prior to said expiration date. All certificates of insurance must be on file with and approved by the IDA before the commencement of any work activities.

15. **Indemnification.** Contractor shall, in addition to any other obligation to indemnify IDA to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the IDA, its directors, employees, agents and volunteers, specifically including The Development Group and its directors, employees, agents, and volunteers, from and against all claims, actions, liabilities, losses (including economic losses), costs, including attorneys' fees and all costs of litigation, and judgments of every name and description arising out of or incidental to the performance of this contract, unless caused by the sole negligence of the IDA, its directors, employees, representatives, agents, or volunteers. Any cost or expenses, including attorneys' fees (including appellate, bankruptcy or patent council fees), incurred by the IDA to enforce this agreement shall be borne by the Contractor. This indemnification shall also cover all claims brought against the IDA, its directors, employees, representatives, agents, or volunteers, specifically including The Development Group and its directors, employees, agents, and volunteers, by any employee of Contractor, subcontractor, or anyone directly or indirectly employed by any of them. The Contractor's obligation under this paragraph shall be limited to \$10,000,000.00 and shall not be limited in any way to the agreed upon contract price or the Contractor's limit of all services, obligations, and duties provided for in this contract, or in the event of termination of the contract for any reason, the terms and conditions of this paragraph shall survive indefinitely.

16. **Subcontracts.** A portion of the Project may be performed under subcontracts, and Contractor shall require that each subcontractor agree to the provisions of this Agreement applicable to the work performed by such subcontractor, including, but not limited to, insurance requirements (except for excess/umbrella coverage), compliance with laws, and indemnification of IDA. IDA retains the right to refuse a subcontractor for reasonable cause, to review Contractor's agreements with subcontractors upon request, and require changes to such subcontractor agreements as IDA deems necessary. IDA shall not be obligated to pay any subcontractor under any circumstance. Contractor shall be responsible to IDA for the acts and omissions of all its employees and all subcontractors, their agents and employees, and all other persons performing any of the Work by, through, or under Contractor.

17. **Notices.** Whenever any notice is required or permitted by this Agreement to be given, such notice shall be by certified mail or overnight delivery addressed to:

If to Contractor:

Semco Construction, Inc.
Attn: Jennifer Hall
205 Century Blvd
Bartow, Florida 33830
Phone: 863-533-7193
jhall@semco.cc

If to IDA:

Hardee County Industrial Development Authority
c/o The Development Group
attn: Denise Grimsley, CEO
107 East Main Street
P.O. Box 458
Wauchula, FL 33873
863-773-3030

Notice shall be considered given when deposited with the U.S. Postal Service or commercial carrier, postage prepaid. Each party will be responsible for notifying the other of any change in their address.

18. **Permits and Licensure.** Contractor shall hold all licenses, registrations, certifications, or permits necessary to complete the services, and shall require the same of its subcontractors, agents, and those performing work. Contractor shall be responsible for acquiring all applicable Federal, State, County, and City licenses and permits and pay local business tax as may be appropriate. Contractor shall pay all sales, consumer, use and other similar taxes required by law resulting from the Work, and such costs shall not be considered in addition to the contract price.

19. **Laws and Regulations.** All services and Work shall be performed pursuant to applicable law, rule, or regulation and pursuant to applicable policy of the IDA. Contractor shall comply with all laws, ordinances, rules, orders and regulations relating to performance of the work and the protection of persons and property.

20. **Safety and Health Regulations.**

20.1. Contractor shall comply with the Department of Labor Safety and Health Regulations promulgated for construction under the Occupational Safety and Health Act and such other rules and regulations as may be applicable to this Project. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (a) all employees on the Work and all other persons who may be affected thereby; (b) all the Work, all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of Contractor or any of its subcontractors or sub-subcontractors; and (c) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designed for removal, relocation, or replacement in the course of construction.

20.2. Contractor shall ensure the sites upon which work is performed is maintained in a clean and orderly condition, free from all refuse, rubbish, scrap materials, and debris. Any injury to persons or damage to property shall be immediately repaired or remedied by Contractor, subject to the limits of indemnification provided by Contractor herein, and Contractor further agrees that IDA may withhold payment hereunder until the damage is repaired or the property is replaced. Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property. Contractor shall ensure that all reasonable safeguards for safety and protection are erected and maintained as required by existing conditions and progress of the Work.

21. **Public Records.** Contractor shall comply with public records laws, including Chapter 119, Florida Statutes. Contractor shall: (1) Keep and maintain public records required by the IDA to perform the services herein. (2) Upon request, provide the IDA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law. (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of

the contract term and following completion of the contract if the Contractor does not transfer the records to IDA. (4) Upon completion of the contract, transfer, at no cost, to IDA all public records in possession of the Contractor or keep and maintain public records required by IDA to perform the service. If the Contractor transfers all public records to IDA upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to IDA, upon request, in a format that is compatible with the information technology systems of IDA.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-773-3030 or kristi.schierling@thedevelopmentgroup.net or 107 EAST MAIN STREET, PO BOX 458, WAUCHULA, FLORIDA 33873.

22. **OFAC List.** Contractor hereby represents, warrants and covenants to IDA that neither Contractor nor any person or entity that directly or indirectly (i) controls Contractor or (ii) has an ownership interest in Contractor of twenty-five percent (25%) or more, appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

23. **Public Entity Crime.** Contractor certifies that neither it nor an affiliate have been placed on the convicted vendor list following conviction for a public entity crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. (*Section 287.133(3)(a), Florida Statutes.*)

24. **Discrimination.** Contractor certifies that neither it nor an affiliate have been placed on the discriminatory vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. (*Section 287.134, Florida Statutes.*)

25. **Scrutinized Companies.** Contractor certifies that it is not on the Scrutinized

*Page 9 of 13
Construction Management At Risk
Continuing Contract*

Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that it does not have business operations in Cuba or Syria, and that the respondent is not participating in a boycott of Israel. Respondent shall immediately notify IDA if its certification set forth in this paragraph changes at any point during the proposal process or term of any contract. IDA may terminate any contract if respondent is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria or is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel. (*Section 287.135, Florida Statutes.*)

26. **E-Verify.** Pursuant to Section 448.095, Florida Statutes, Contractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. If Contractor enters into an agreement with a subcontractor, Contractor shall require the subcontractor to provide an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and the Contractor shall maintain a copy of such affidavit for the duration of the agreement.

27. **Governing Law and Venue.** This Agreement shall be interpreted under and its performance governed by the laws of the State of Florida without regard to conflict of law principles. In the event of litigation between the parties related to or arising out of this Agreement, venue shall be in Hardee County, Florida and no other place, and Florida law shall apply. IDA does not waive sovereign immunity, and its liability, if any, is limited by law, including Section 768.28, Florida Statutes.

28. **Prevailing Party.** Subject to the limitations of Section 768.28, Florida Statutes, in any action brought by either party for the interpretation or enforcement of the obligations of the other party, including IDA's right to indemnification, the prevailing party shall be entitled to recover from the losing party all reasonable attorneys' fees, paralegal fees, court and other costs, whether incurred before or during litigation, on appeal, in bankruptcy, or in post judgment collections.

29. **Assignment.** Contractor shall not assign, in whole or in part, this Agreement or any monies due or to become due hereunder, without the written consent of IDA.

30. **Severability.** Each and every provision of law and clause required by law to be inserted in this document shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included, and if, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon application of either party, the contract shall forthwith be physically amended to make such insertion or correction.

31. **Binding Effect.** This contract shall bind and inure to the benefit of the successors and assigns of each of the parties.

32. **Time.** Time is of the essence of this Agreement.

33. **Multiple Originals; Amendment.** This Agreement is executed in multiple copies, each of which shall be deemed an original. No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof, and duly executed by each party.

AGREED TO as of the date last executed as set forth below.

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: _____
Lee Mikell, Chair

Date: _____

Attest:

By: _____

Witnesses as to Contractor:

**SEMCO CONSTRUCTION, INC., a
Florida corporation**

Witness #1: *Donna DeBeck*
Print Name: Donna DeBeck

By: *Jennifer C. Hall*
Name: Jennifer C. Hall

Witness #2: *Olivia Pope*
Print Name: Olivia Pope

Title: Executive Vice President
Date: 9-11-23

(corporate seal)



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Construction Management At Risk
Continuing Contract

HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

NOTICE TO PROCEED / CHANGE ORDER

DATE: _____

TO: _____

CONTRACT: Construction Management Services on Continuing Basis (IDA RFQ #2023-01)

This document constitutes your Notice to Proceed with the following:

- Pre-Construction
- Procurement (Bid and Awards)
- Construction
- Close-Out

for a project described as: _____

This document constitutes a CHANGE ORDER regarding: _____

Additional Instructions (including identification of design professionals or other consultants):

Please review the Contract Documents for further details. If you have any questions, please contact: _____ at 863-773-3030.

Sincerely,

Denise Grimsley
CEO, The Development Group

Exhibit "A"

Contractor's Hourly Rates and Expense Schedule

EXHIBIT "A"

CONTRACTOR'S HOURLY RATE AND EXPENSE SCHEDULE

Company Name: SEMCO Construction, Inc.

September 11 2023

| Classification | Raw Labor Rates | Rates with Burden |
|---|----------------------------|----------------------------|
| Project Executive | \$68.75 - \$72.75 per hour | \$92.81 - \$98.21 per hour |
| Project Manager | \$47.75 - \$51.50 per hour | \$64.46 - \$69.52 per hour |
| Project Superintendent | \$36.50 - \$47.75 per hour | \$49.27 - \$64.46 per hour |
| Field Supervisor/Assistant Superintendent | \$31.50 - \$38.50 per hour | \$42.52 - \$51.97 per hour |
| Skilled Labor | \$26.00 - \$32.00 per hour | \$35.10 - \$43.20 per hour |
| Semi-Skilled Labor | \$21.00 - \$25.00 per hour | \$28.35 - \$33.75 per hour |
| Unskilled Labor | \$18.00 - \$21.00 per hour | \$24.30 - \$28.35 per hour |
| Contract Administrator/Estimator | \$45.75 - \$51.50 per hour | \$61.76 - \$69.52 per hour |
| Bookkeeper | \$22.75 - \$26.50 per hour | \$30.71 - \$35.77 per hour |

CM Fee will be negotiated for each project.

CONTRACT FOR CONSTRUCTION MANAGEMENT AT RISK SERVICES
ON A CONTINUING BASIS

THIS AGREEMENT is made by and between the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a dependent special district with an address at 107 E. Main Street, Wauchula, Florida 33873 (the “IDA”) and **L. COBB CONSTRUCTION, INC.**, a Florida corporation, with an address at 401 S 6th Avenue, Wauchula, Florida 33873 (herein called “Contractor”).

1. **Premise.**

1.1. IDA solicited responses to RFQ 2023-01 for a qualified construction management firm to provide construction management services at risk on a continuing basis pursuant to Section 287.055, Florida Statutes. IDA would like for Contractor to perform the work and Contractor would like to do so on the terms and conditions set forth herein.

1.2. Contractor will provide construction management services to the IDA on an as-needed basis, based upon notices to proceed to be issued by the IDA (each a “Project”). Contractor understands and agrees that this contract does not guarantee award of a specific Project nor exclusivity to perform services.

1.3. The “Contract Documents” that constitute the entire agreement between the IDA and Contractor shall consist of: this Agreement and all exhibits hereto, RFQ 2023-01, IDA issued Notices to Proceed, proposals (including Guaranteed Maximum Price) submitted by Contractor and accepted by IDA, written amendments to this Agreement that are validly executed by IDA and Contractor, and IDA approved change orders.

1.4. Contractor represents that it is thoroughly familiar with and understands the requirements of performing construction management at-risk services and that it is experienced in the administration and construction of projects of the type and scope contemplated. Contractor represents to IDA that Contractor has all necessary construction education, skill, knowledge, and experience required to perform services and will maintain, at all times during the term of this Agreement, such personnel on its staff to provide the services contemplated hereby within the time periods required hereby. In addition, Contractor represents that it has, and all of the subcontractors performing services under this Agreement will have, all applicable licenses required by the State of Florida to perform such services.

2. **Work.**

2.1. Contractor, in consideration of the premises and mutual covenants herein contained, agrees to furnish at its own cost and expense, all labor, tools, materials, equipment, superintendence, security, insurance, testing, and all other accessories and services necessary to provide professional construction management at risk services (herein collectively called the “Work”).

2.2. The scope of construction management services will be identified on a project-by-

project basis and will vary depending on project needs. A project scope may include, but is not limited to, alterations and additions to existing facilities, renovations, site improvements, new construction, facility demolition, utility upgrades and improvements, electrical system upgrades, mechanical system upgrades, and plumbing system upgrades. All services shall be performed pursuant to applicable law, rule, or regulation and pursuant to applicable policy of the IDA. IDA reserves the right to add or delete, at any time, any or all tasks or services. No self-performance of trade construction work by Contractor is permitted. General construction management services shall be provided by Contractor incidental to the activities of each phase.

2.3. A Notice to Proceed issued by IDA is required to begin each Project and no work shall begin and no fees/costs shall be incurred as to a particular Project (or phase of a Project, if applicable) unless and until the IDA issues an applicable Notice to Proceed. IDA is under no obligation to issue any Notice to Proceed. If IDA does not issue a Notice to Proceed, there will be no recovery of any monetary awards by Contractor, including cost and/or anticipated profit. For avoidance of any doubt, a Notice to Proceed is subject to the terms and conditions of this Contract and becomes a Contract Document upon its issuance.

2.4. A Notice to Proceed may be issued on behalf of the IDA by the Chief Executive Office of The Hardee County Economic Development Council, Inc., d/b/a The Development Group, or her authorized designee (the "IDA Project Manager").

3. **Contract Price.** Contractor's standard hourly rates and expenses are attached hereto as Exhibit "A". Such rates and expenses shall remain in effect through the duration of the contract period. Mileage and man-hours spent in travel time are incidental to the Work and are not an extra compensable expense. Compensation for a specific Project shall be as set forth in the Guaranteed Maximum Price proposal accepted by IDA following issuance of a Notice to Proceed.

4. **Guaranteed Maximum Price.**

4.1. Contractor agrees to furnish the Work required for completion of a Project on a Guaranteed Maximum Price basis. Contractor shall prepare written a Guaranteed Maximum Price ("GMP") for the Project activities in negotiation with IDA. If a GMP proposal cannot be successfully negotiated in a timely fashion, then either party may provide written notice of termination of this Agreement and neither party shall thereafter have any further obligation under this Agreement. In such an event, the IDA may proceed with the Project using a party or parties other than Contractor.

4.2. The GMP shall be itemized and shall include all construction, material, labor, and management cost, in detail, per phase (as applicable), and shall also include the complete and total cost of the Project in accordance with all requirements of the applicable Contract Documents. The GMP shall also set forth the substantial completion date of the Project, which shall be a definite date, and the estimated final completion date. The term "substantial completion" shall mean when the Project is sufficiently complete so that IDA can enjoy beneficial use or occupancy of the Project and can utilize it for its intended purpose. Any change in the GMP shall require written approval of IDA.

4.3. Once the GMP proposal is accepted by IDA, the Contractor shall be entitled to no increase in the GMP unless (i) the increase is due to substantial and unexpected enlargement of the scope of the Project and (ii) Contractor provided written notice to IDA regarding the impact of the adjusted scope to the cost and time of the Project and (iii) IDA has authorized the increase by written change order. Except as set forth in the immediately preceding sentence, all costs or expenses that exceed the GMP shall be borne by the Contractor.

5. **Payment.**

5.1. On or about the first day of each month, Contractor shall make application for payment based upon percentages of completion in the amount of ninety-five percent (95%) of the Work completed up to the last day of the previous month, less the aggregate of previous payments. The remaining five percent (5%) of the Work completed shall be retainage held by IDA until final completion of the Project.

5.2. The IDA Project Manager must approve each payment request. Each payment application shall: (i) detail an explanation of what work was completed by each entity requesting payment; (ii) detail an estimate of the percentage of work performed by any subcontractor in relation to the entire scope of work contained in the subcontractor's contract with Contractor; (iii) include a certification by Contractor that the work performed was in complete accordance with the Contract Documents; (iv) include a certification that the amount of the invoice is accurate in relation to the work performed under any subcontractor contract; and (v) include executed partial and/or final lien waivers from all suppliers and subcontractors.

5.3. Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver to IDA a complete release of all liens arising out of this Agreement, or receipts in full in lieu thereof, and an affidavit that so far as the Contractor has knowledge or information the releases and receipts include all the labor and materials for which a lien could be filed; but the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the IDA's legal counsel to indemnify the IDA against any lien. If any lien remains unsatisfied after all payment are made, Contractor shall refund to the IDA all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorneys' fee.

6. **Term and Termination.** The term of this Agreement shall be for one-year and shall automatically renew on an annual basis unless sooner terminated as provided herein.

6.1. IDA may terminate this Agreement, in whole or in part, for the IDA's convenience upon 30 days written notice to Contractor. IDA may, upon written notice, terminate this Agreement, in whole or in part, at any time due to Contractor's failure to perform any material provision or portion of the Contract Documents. Upon receipt of a termination notice, services shall be immediately discontinued (unless the notice directs otherwise) and all plans and materials as may have been accumulated in performance of this Agreement, whether completed or in process, shall be delivered to the IDA.

6.2. If the termination is for the convenience of the IDA, an equitable adjustment in the

contract price shall be made based on Work performed, but no amount shall be allowed for anticipated profit on unperformed services.

6.3. If the termination is due to Contractor's failure to fulfill its obligations, the IDA may take over the Work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to the IDA for any additional cost occasioned to the IDA thereby. If, after notice of termination for Contractor's failure to fulfill contract obligations, it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the IDA. In such event, adjustment in the contract price shall be made as provided in this Agreement.

6.4. The rights and remedies of the IDA provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

7. **Commencement and Completion of Work.** Contractor hereby agrees to commence Work within ten (10) days from receipt of a Notice to Proceed unless otherwise specified on the Notice to Proceed or otherwise agreed in writing by the IDA Project Manager. Contractor shall be solely responsible for the means, methods, and techniques utilized in the Work.

8. **Project Time.** The number of calendar days from the date on which the Notice to Proceed is issued by the IDA through the required substantial completion date of the Project as subsequently established in the GMP shall constitute the "Project Time." Contractor warrants that the Project shall be substantially complete within the Project Time, provided that there are no unreasonable and unanticipated delays in completion of the design documents, unusual and unreasonable delays in obtaining any approval from a State or local governing agency or authority, or other occurrences which would form the basis for an extension of the Project Time; provided, however, that Contractor shall promptly notify IDA in writing of all anticipated or actual delays. Further, Contractor shall notify IDA in writing of any deadline by which design documents, approvals, or other information from IDA is needed and shall do so sufficiently in advance of such deadline so that any delay can be avoided.

9. **Liquidated Damages.** In the event of any delay in achieving substantial completion of a Project resulting from any act or omission of Contractor, the Contractor shall pay the IDA the sum of five hundred dollars (\$500.00) per day for each and every calendar day of such delay in achieving substantial completion beyond the Project Time. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the IDA. When the IDA reasonably believes substantial completion will be inexcusably delayed, the IDA shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the IDA to be adequate to recover liquidated damages applicable to such delays.

10. **Change Orders.** The contract prices, IDA-approved GMP, and the Project Time may be changed only by a written change order executed by the IDA Project Manager. The IDA, without invalidating this Agreement, may order changes in the Work within the general scope of the Project consisting of additions, deletions, or other revisions, with the contract price and the Project Time being adjusted accordingly.

10.1. The cost or credit to IDA resulting from a change order shall be determined in one or more of the following ways: (a) by mutual acceptance of a lump sum properly itemized; (b) by unit prices stated in the Contract Documents or subsequently agreed upon; or (c) by cost and a mutual acceptable fixed or percentage fee.

10.2. If none of the methods set forth in Section 10.1 is agreed upon, Contractor shall nonetheless promptly proceed with the Work involved. The costs or credits shall then be determined on the basis of Contractor's reasonable expenditures and savings. In such case, Contractor shall keep and present an itemized accounting together with appropriate supporting data. The amount of credit to be allowed by Contractor to IDA for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease as confirmed by Contractor's records.

10.3. If Contractor claims that additional cost or time is involved because of any unanticipated event outside of Contractor's control, Contractor shall make such claim solely as provided herein and failure to make a claim timely shall be a waiver of any such claim. If Contractor wishes to make a claim for an increase in the contract price, an extension in the Project Time or any change to the GMP, Contractor shall give IDA written notice thereof within seven (7) calendar days after occurrence of the event giving rise to such claim. This written notice shall be given by Contractor before proceeding to execute Work resulting from the event, except in an emergency endangering life or property in which case Contractor shall proceed as necessary under the circumstances. No change orders for time extension for rain or other adverse weather conditions, unless the condition is unusual or unseasonable for the time of year, shall be authorized.

11. **Inspection, Correction, and Warranty.** Contractor shall notify the IDA Project Manager of completion of each phase of the Project within twenty-four hours after such completion unless otherwise agreed. The IDA Project Manager or designee will inspect the work and, if he/she finds that it has not been satisfactorily done, the Contractor shall cause the work to be promptly corrected at no cost to IDA. However, Contractor shall be responsible for the technical accuracy of the services it performs and documents it prepares, and neither IDA nor its agents shall be responsible for discovering deficiencies in such services or documents. Acceptance of the Work and final payment shall not relieve Contractor of the obligation to remedy Work that does not comply with the Contract Documents. For avoidance of any doubt, the Contractor shall be responsible for the failure of any subcontractors to carry out work in accordance with the applicable Contract Documents. Contractor shall immediately cause defective work to be corrected at no expense to IDA. If, within three years after final completion of a subcontractor's work on the Project, the work is found to be defective or not in accordance with the applicable Contract Documents, the Contractor shall cause such work to be corrected promptly upon receipt of written notice from IDA. The obligations set forth in this paragraph shall survive final payment to Contractor and the termination of this Agreement. The warranties provided in this section shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

12. **Performance.** Contractor shall, in good workmanlike manner, perform all Work. Contractor shall not bid on or perform any of the trade construction work or professional services;

this restriction includes entities in which Contractor or any of its principals or their family members hold an ownership interest or to which Contractor or any of its principals or their family members would receive any special private benefit. Should the Contractor fail to provide prudent and competent professional service, the IDA may notify the Contractor in writing stating the IDA's intention to terminate the Agreement and stating the reasons therefore. Unless Contractor remedies such default or has made satisfactory arrangements with the IDA for such remedy within five (5) business days after service of said notice upon Contractor, this Agreement may be terminated by the IDA. In the event of such termination, the IDA may take over and complete the work at the expense of the Contractor. Contractor shall be liable to the IDA for any excess costs the IDA incurs.

13. **Independent Contractor.** The parties expressly recognize that the relationship between the IDA and the Contractor is that of independent contractors, and that neither Contractor, nor any of its servants, agents, or employees shall ever be considered to be an agent, servant or employee of the IDA.

14. **Insurance.** Contractor shall obtain and maintain, at Contractor's expense, the following insurance and shall not commence Work hereunder until such insurance is obtained and provided to the IDA:

COMPREHENSIVE GENERAL LIABILITY: Contractor shall maintain commercial general liability (CGL) insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location/project in the amount of \$4,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury and advertising injury.

COMMERCIAL AUTOMOBILE LIABILITY INSURANCE: Contractor shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos.) The policy shall be endorsed to provide contractual liability coverage.

WORKERS' COMPENSATION: Coverage is to apply for all employees for statutory limits in compliance with the applicable state and federal laws.

Contractor shall furnish the IDA with Certificates of Insurance. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Hardee County Industrial Development Authority is to be specifically included as an additional insured on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30-days prior to said expiration date. All certificates of insurance must be on file with and approved by the IDA before the commencement of any work activities.

15. **Indemnification.** Contractor shall, in addition to any other obligation to indemnify IDA to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the IDA, its directors, employees, agents and volunteers, specifically including The Development Group and its directors, employees, agents, and volunteers, from and against all claims, actions, liabilities, losses (including economic losses), costs, including attorneys' fees and all costs of litigation, and judgments of every name and description arising out of or incidental to the performance of this contract, unless caused by the sole negligence of the IDA, its directors, employees, representatives, agents, or volunteers. Any cost or expenses, including attorneys' fees (including appellate, bankruptcy or patent council fees), incurred by the IDA to enforce this agreement shall be borne by the Contractor. This indemnification shall also cover all claims brought against the IDA, its directors, employees, representatives, agents, or volunteers, specifically including The Development Group and its directors, employees, agents, and volunteers, by any employee of Contractor, subcontractor, or anyone directly or indirectly employed by any of them. The Contractor's obligation under this paragraph shall be limited to \$10,000,000.00 and shall not be limited in any way to the agreed upon contract price or the Contractor's limit of all services, obligations, and duties provided for in this contract, or in the event of termination of the contract for any reason, the terms and conditions of this paragraph shall survive indefinitely.

16. **Subcontracts.** A portion of the Project may be performed under subcontracts, and Contractor shall require that each subcontractor agree to the provisions of this Agreement applicable to the work performed by such subcontractor, including, but not limited to, insurance requirements (except for excess/umbrella coverage), compliance with laws, and indemnification of IDA. IDA retains the right to refuse a subcontractor for reasonable cause, to review Contractor's agreements with subcontractors upon request, and require changes to such subcontractor agreements as IDA deems necessary. IDA shall not be obligated to pay any subcontractor under any circumstance. Contractor shall be responsible to IDA for the acts and omissions of all its employees and all subcontractors, their agents and employees, and all other persons performing any of the Work by, through, or under Contractor.

17. **Notices.** Whenever any notice is required or permitted by this Agreement to be given, such notice shall be by certified mail or overnight delivery addressed to:

If to Contractor:

L. Cobb Construction, Inc.
Attn: Justin "Kyle" Cobb
401 S 6th Avenue
Wauchula, Florida 33873
Phone: 863-773-3839
operations@lcobbconstruction.com

If to IDA:

Hardee County Industrial Development Authority
c/o The Development Group
attn: Denise Grimsley, CEO
107 East Main Street
P.O. Box 458
Wauchula, FL 33873
863-773-3030

Notice shall be considered given when deposited with the U.S. Postal Service or commercial carrier, postage prepaid. Each party will be responsible for notifying the other of any change in their address.

18. **Permits and Licensure.** Contractor shall hold all licenses, registrations, certifications, or permits necessary to complete the services, and shall require the same of its subcontractors, agents, and those performing work. Contractor shall be responsible for acquiring all applicable Federal, State, County, and City licenses and permits and pay local business tax as may be appropriate. Contractor shall pay all sales, consumer, use and other similar taxes required by law resulting from the Work, and such costs shall not be considered in addition to the contract price.

19. **Laws and Regulations.** All services and Work shall be performed pursuant to applicable law, rule, or regulation and pursuant to applicable policy of the IDA. Contractor shall comply with all laws, ordinances, rules, orders and regulations relating to performance of the work and the protection of persons and property.

20. **Safety and Health Regulations.**

20.1. Contractor shall comply with the Department of Labor Safety and Health Regulations promulgated for construction under the Occupational Safety and Health Act and such other rules and regulations as may be applicable to this Project. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (a) all employees on the Work and all other persons who may be affected thereby; (b) all the Work, all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of Contractor or any of its subcontractors or sub-subcontractors; and (c) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designed for removal, relocation, or replacement in the course of construction.

20.2. Contractor shall ensure the sites upon which work is performed is maintained in a clean and orderly condition, free from all refuse, rubbish, scrap materials, and debris. Any injury to persons or damage to property shall be immediately repaired or remedied by Contractor, subject to the limits of indemnification provided by Contractor herein, and Contractor further agrees that IDA may withhold payment hereunder until the damage is repaired or the property is replaced. Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property. Contractor shall ensure that all reasonable safeguards for safety and protection are erected and maintained as required by existing conditions and progress of the Work.

21. **Public Records.** Contractor shall comply with public records laws, including Chapter 119, Florida Statutes. Contractor shall: (1) Keep and maintain public records required by the IDA to perform the services herein. (2) Upon request, provide the IDA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law. (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of

the contract term and following completion of the contract if the Contractor does not transfer the records to IDA. (4) Upon completion of the contract, transfer, at no cost, to IDA all public records in possession of the Contractor or keep and maintain public records required by IDA to perform the service. If the Contractor transfers all public records to IDA upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to IDA, upon request, in a format that is compatible with the information technology systems of IDA.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-773-3030 or kristi.schierling@thedevelopmentgroup.net or 107 EAST MAIN STREET, PO BOX 458, WAUCHULA, FLORIDA 33873.

22. **OFAC List.** Contractor hereby represents, warrants and covenants to IDA that neither Contractor nor any person or entity that directly or indirectly (i) controls Contractor or (ii) has an ownership interest in Contractor of twenty-five percent (25%) or more, appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

23. **Public Entity Crime.** Contractor certifies that neither it nor an affiliate have been placed on the convicted vendor list following conviction for a public entity crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. (*Section 287.133(3)(a), Florida Statutes.*)

24. **Discrimination.** Contractor certifies that neither it nor an affiliate have been placed on the discriminatory vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. (*Section 287.134, Florida Statutes.*)

25. **Scrutinized Companies.** Contractor certifies that it is not on the Scrutinized

*Page 9 of 13
Construction Management At Risk
Continuing Contract*

Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that it does not have business operations in Cuba or Syria, and that the respondent is not participating in a boycott of Israel. Respondent shall immediately notify IDA if its certification set forth in this paragraph changes at any point during the proposal process or term of any contract. IDA may terminate any contract if respondent is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria or is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel. (*Section 287.135, Florida Statutes.*)

26. **E-Verify.** Pursuant to Section 448.095, Florida Statutes, Contractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. If Contractor enters into an agreement with a subcontractor, Contractor shall require the subcontractor to provide an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and the Contractor shall maintain a copy of such affidavit for the duration of the agreement.

27. **Governing Law and Venue.** This Agreement shall be interpreted under and its performance governed by the laws of the State of Florida without regard to conflict of law principles. In the event of litigation between the parties related to or arising out of this Agreement, venue shall be in Hardee County, Florida and no other place, and Florida law shall apply. IDA does not waive sovereign immunity, and its liability, if any, is limited by law, including Section 768.28, Florida Statutes.

28. **Prevailing Party.** Subject to the limitations of Section 768.28, Florida Statutes, in any action brought by either party for the interpretation or enforcement of the obligations of the other party, including IDA's right to indemnification, the prevailing party shall be entitled to recover from the losing party all reasonable attorneys' fees, paralegal fees, court and other costs, whether incurred before or during litigation, on appeal, in bankruptcy, or in post judgment collections.

29. **Assignment.** Contractor shall not assign, in whole or in part, this Agreement or any monies due or to become due hereunder, without the written consent of IDA.

30. **Severability.** Each and every provision of law and clause required by law to be inserted in this document shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included, and if, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon application of either party, the contract shall forthwith be physically amended to make such insertion or correction.

31. **Binding Effect.** This contract shall bind and inure to the benefit of the successors and assigns of each of the parties.

32. **Time.** Time is of the essence of this Agreement.

33. **Multiple Originals; Amendment.** This Agreement is executed in multiple copies, each of which shall be deemed an original. No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof, and duly executed by each party.

AGREED TO as of the date last executed as set forth below.

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: _____
Lee Mikell, Chair

Date: _____

Attest:

By: _____

Witnesses as to Contractor:

**L. COBB CONSTRUCTION, INC., a
Florida corporation**

Witness #1: _____

Print Name: Thomas Kelley

Witness #2: Toni Feo

Print Name: Toni Feo

By: _____

Name: James "Clay" Cobb

Title: CEO

Date: 9/13/2023

(corporate seal)



HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

NOTICE TO PROCEED / CHANGE ORDER

DATE: _____

TO: _____

CONTRACT: Construction Management Services on Continuing Basis (IDA RFQ #2023-01)

This document constitutes your Notice to Proceed with the following:

- Pre-Construction
- Procurement (Bid and Awards)
- Construction
- Close-Out

for a project described as: _____

This document constitutes a CHANGE ORDER regarding: _____

Additional Instructions (*including identification of design professionals or other consultants*):

Please review the Contract Documents for further details. If you have any questions, please contact: _____ at 863-773-3030.

Sincerely,
Denise Grimsley
CEO, The Development Group

Exhibit "A"

Contractor's Hourly Rates and Expense Schedule

| | Base Rate | Burden Rate | Total |
|--------------------------------|------------------------|-------------|-------------|
| Project Executive: | \$99.88 | 48% | \$147.82 |
| Project Manager: | \$76.38 | 48% | \$113.04 |
| Assistant Project Manager: | \$47.00 | 48% | \$69.56 |
| Jobsite Superintendent: | \$64.63 | 48% | \$95.65 |
| Assistant Superintendent: | \$41.13 | 48% | \$60.87 |
| Project Accountant: | \$29.38 | 48% | \$43.48 |
| Auto Expense: | \$450.00/wk | | \$450.00/wk |
| General Liability Insurance: | 0.2% of total contract | | |
| Performance and Payment Bonds: | 1.5% of total contract | | |

RESOLUTION NO. 23-05

A RESOLUTION OF THE HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY AMENDING AND RESTATING RESOLUTION NO. 20-04 AND APPROVING A FUNDING AGREEMENT WITH THE HARDEE COUNTY EDUCATION FOUNDATION, INCORPORATED.

WHEREAS, on July 10, 2018 the Local Development Agreement for Ona Mine – Hardee County was entered into by Mosaic Fertilizer, LLC and Hardee County, Florida (the “LDA”) wherein the parties agreed to the adoption of Economic Development Terms, as defined in the LDA, including allocation of a workforce development endowment fund;

WHEREAS, the workforce development endowment fund is required to be maintained at the Minimum Principal Amount defined in the LDA and held in trust under the direction of a chartered financial analyst;

WHEREAS, The Hardee County Education Foundation, Incorporated, a not for profit corporation overseen by an uncompensated board of directors, (the “Foundation”) is tasked with procurement of the chartered financial analyst;

WHEREAS, earnings from the endowment trust, i.e. interest and/or dividends paid on the principal of the trust fund, are to be used to fund a program to benefit residents of Hardee County who achieve certification in an eligible skilled trade or who complete an undergraduate degree at any accredited public or private institution, where eligibility is contingent, in part, on a recipient maintaining residency in Hardee County;

WHEREAS, the Foundation is tasked with establishing the eligibility requirements for and conducting the administration, rule-making, and auditing of such program;

WHEREAS, to effectuate the administration of its duties, the Foundation has contracted with a chartered financial analyst for the management of the endowment investment trust funds, and employs an executive director to manage day-to-day operations related to the workforce development endowment program;

WHEREAS, the IDA previously provided funding to the Foundation pursuant to IDA Resolution No. 20-04 and seeks to continue the general practice pursuant to a written funding agreement;

WHEREAS, it is anticipated that surplus earnings from the endowment will be used to fund all operational expenses necessary for management of the endowment program by the end of fiscal year 2024-2025; and

WHEREAS, the Foundation seeks temporary funding from the Hardee County Industrial Development Authority (the “IDA”) to cover certain administrative costs pertaining to its various endowment-related responsibilities.

NOW, THEREFORE, BE IT RESOLVED BY the Board of the Hardee County Industrial Development Authority that:

1. The above recitals are true and correct and are incorporated herein by reference.
2. IDA’s Resolution No. 20-04 is amended and restated in full as set forth herein.
3. IDA recognizes that the Foundation is a valuable partner in fostering the economic development of Hardee County and finds that providing temporary funding to the Foundation for operational and endowment-related expenses will further the common purpose of retaining workforce talent.
4. To that end, IDA approves the reimbursement and funding Agreement attached hereto as Exhibit “A” and authorizes the IDA Chair or IDA Vice-Chair to sign and deliver all documents and to transfer funds pursuant to the terms and conditions of the Agreement.
5. IDA finds that the reimbursements and funding set forth in the Agreement will foster economic development in Hardee County and will serve the public purpose of advancing the economic prosperity and general welfare of Hardee County and its residents.
6. This resolution shall take effect immediately upon its passage.

APPROVED AND ADOPTED this 14th day of September, 2023 by the Board of the Hardee County Industrial Development Authority.

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: _____
Lee Mikell, its Chair

ATTEST:

By: _____

Name: _____

Exhibit "A"

**AGREEMENT BY AND BETWEEN THE
HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY
AND THE HARDEE COUNTY EDUCATION FOUNDATION, INCORPORATED**

[text of agreement follows]

**AGREEMENT BY AND BETWEEN THE
HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY
AND THE HARDEE COUNTY EDUCATION FOUNDATION, INCORPORATED**

THIS AGREEMENT is entered into this _____ day of _____, 2023 (the “Effective Date”), by and between the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a dependent special district and body politic and corporate of the State of Florida (the “IDA”) and **THE HARDEE COUNTY EDUCATION FOUNDATION, INCORPORATED**, a Florida not for profit corporation (the “Foundation”).

WHEREAS, the Hardee County Industrial Development Authority is a dependent special district operating pursuant to Chapter 159, Florida Statutes, to foster and promote economic development in Hardee County, Florida;

WHEREAS, The Hardee County Education Foundation, Incorporated is a Florida not for profit corporation overseen by an uncompensated board of directors focused upon enhancing the quality of and support for education in Hardee County, Florida;

WHEREAS, on July 10, 2018 the Local Development Agreement for Ona Mine – Hardee County was entered into by Mosaic Fertilizer, LLC and Hardee County, Florida (the “LDA”) wherein Economic Development Terms, as defined in the LDA, including allocation of a workforce development endowment fund, were agreed upon;

WHEREAS, the workforce development endowment fund is required to be maintained at the minimum principal amount defined in the LDA and held in trust under the direction of a chartered financial analyst;

WHEREAS, earnings from the endowment trust, i.e. interest and/or dividends paid on the principal of the trust fund, are to be used to fund a program to benefit residents of Hardee County who achieve certification in an eligible skilled trade or who complete an undergraduate degree at any accredited public or private institution, where eligibility is contingent, in part, on a recipient maintaining residency in Hardee County;

WHEREAS, the Foundation is tasked with procurement of the chartered financial analyst and with establishing the eligibility requirements for and conducting the administration, rule-making, and auditing of the workforce development endowment program;

WHEREAS, to effectuate the administration of its duties, the Foundation has contracted with a chartered financial analyst for the management of the endowment investment trust funds,

and employs an executive director to manage day-to-day operations related to the workforce development endowment program;

WHEREAS, it is anticipated that surplus earnings from the endowment will be used to fund all operational expenses necessary for management of the endowment program by the end of fiscal year 2024-2025;

WHEREAS, the workforce development endowment program and the mission and work of the Foundation fosters the economic development of Hardee County by, among other things, retaining local workforce talent;

WHEREAS, the IDA previously provided funding to the Foundation pursuant to IDA Resolution No. 20-04; and

WHEREAS, the Foundation seeks temporary funding from the IDA to cover certain administrative costs pertaining to its various endowment-related responsibilities, and the IDA desires to provide such temporary funding on the terms and conditions set forth herein.

NOW THEREFORE, the parties agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein.
2. Funding – Chartered Financial Analyst. IDA shall reimburse Foundation up to a maximum amount of \$40,000.00 per fiscal year (July 1 to June 30) for the expense of securing services of a chartered financial analyst for the endowment program. Funds shall be payable on a quarterly basis following IDA’s receipt of satisfactory documentation detailing actual expenses. Funding shall be available each fiscal year through the end of fiscal year 2024-2025 (specifically, June 30, 2025) unless sooner terminated as provided herein.
3. Funding – Executive Director. IDA shall provide the Foundation up to \$90,000.00 per fiscal year to be utilized by the Foundation in funding a salary and benefits of an executive director position. Funding shall be available each fiscal year in quarterly installments through the end of fiscal year 2024-2025 (specifically, June 30, 2025) unless sooner terminated as provided herein.
4. Annual Report. Upon request, the Foundation shall attend one meeting of the IDA Board of Directors on an annual basis to discuss the Foundation’s work in the community as well as provide a general report on the status of the endowment program and its operational sustainability.
5. Term and Termination. This Agreement will take effect as of the Effective Date

and continue until June 30, 2025 unless sooner terminated. Either party may terminate this agreement upon 30 days notice to the other party.

6. Audit. Upon no less than ten days notice, the IDA shall have access to any books, documents, papers, and records of the Foundation which are directly pertinent to the funding provided pursuant to this Agreement for the purpose of audit, examination, and copying. The Foundation will retain all such records for a period of ten years after the IDA has made final payment under this Agreement.

7. Compliance with Laws. Foundation shall comply, and ensure compliance by its agents, representatives, contractors, and subcontractors, with all applicable codes, regulations, laws, rules, and ordinances.

8. Independent Contractor. Neither the Foundation, nor any of its representatives, agents, or employees, shall be considered a representative, agent, or employee of the IDA. No party can make representations or commitments that bind the other party. Foundation shall be responsible to the IDA for the acts and omissions of all Foundation's employees, agents, representatives, contractors, and subcontractors, their agents and employees.

9. Funding Out. Each payment obligation of the IDA created by this Agreement is contingent upon the availability of funds that are annually appropriated or allocated for the payment(s) hereunder. The IDA shall be the final authority as to what constitutes an annual appropriation and the availability of funds necessary to continue funding this Agreement. If such funds are not allocated and available, this Agreement may be terminated by the IDA at the end of the period for which funds are available, and such action will not constitute a default by the IDA. No penalty shall accrue to the IDA in the event this provision is exercised, and the IDA shall not be obligated or liable for any future payments due or for any damages as a result of such termination.

10. E-Verify. Pursuant to Section 448.095, Florida Statutes, each party shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. Either party who has a good faith belief that the other has knowingly violated Section 448.09(1), Florida Statutes, shall terminate this Agreement, which termination shall not be considered a breach of contract.

11. Public Records. The parties acknowledge that all documents, including but not limited to, letters, memos, e-mails, plans, specifications, maps, evaluations, reports, and other

records prepared or developed under this Agreement may be considered public records subject to disclosure to the public pursuant to Chapter 119, Florida Statutes. In the event either party fails to abide by the provisions of Chapter 119, Florida Statutes, the other party may provide the first party with seven days written notice of an intent to terminate this Agreement, during which period if the first party fails to allow access to such public records, the Agreement may be terminated by the other party.

12. Notices. Whenever any notice is required or permitted by this Grant Agreement to be given, such notice shall be by certified mail or overnight delivery addressed to:

If to IDA:

Hardee County Industrial Development Authority
107 East Main Street
P.O. Box 458
Wauchula, FL 33873

If to Foundation:

The Hardee County Foundation, Incorporated
1009 N 6th Avenue
PO Box 1678
Wauchula, FL 33873

Notice shall be considered given when deposited with the U.S. Postal Service or commercial carrier, postage prepaid. Each party is responsible to notify the other party of any change in address.

13. Indemnification. Foundation agrees to indemnify, hold harmless, and defend the IDA, its officers, employees, agents, and representatives from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorneys' fees, reasonable investigative and discovery costs, court costs and all other sums which the District, its officers, employees, agents, and representatives may pay or become obligated to pay on account of any, all, and every claim or demand, or assertion of liability, or any claim or action founded thereon, related to, arising out of, or incidental to the performance of this Agreement. If a party is a state agency or subdivision as defined in Section 768.28, Florida Statutes, nothing herein shall be construed to extend that party's liability beyond that provided in Section 768.28, Florida Statutes.

14. Limitation of Liability. In no event will any party be liable to any other party for any indirect, special, punitive, exemplary, incidental or consequential damages. This limitation

will apply regardless of whether or not the other party has been advised of the possibility of such damages. Nothing in this Agreement shall be construed as a waiver of sovereign immunity.

15. Assignment. Foundation shall not assign this Agreement, in whole or in part, or any monies due or to become due hereunder, without the express written consent of IDA.

16. Governing Law and Venue. This Agreement is executed and entered into in Hardee County, Florida, and will be construed, performed, and enforced in all respects in accordance with the laws and rules of the State of Florida. Each party will perform its obligations in accordance with the terms and conditions of this agreement. Any and all litigation arising under this Agreement shall be brought in the appropriate court in Hardee County, Florida.

17. Severability. If any term or provision of this Agreement is found to be illegal and unenforceable, the remainder of the Agreement will remain in full force and effect and such term of provision will be deemed stricken.

18. Waiver. The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

19. Entire Agreement. This writing contains the entire agreement of the parties. There are no provisions, terms, condition, or obligations other than those contained in this agreement; and this agreement superseded all previous communication, representation, or agreement, either verbal or written, between the parties. No amendment will be effective unless reduced to writing and signed by the parties.

20. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in establishing proof of this Agreement to produce or account for more than one such counterpart.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto agreed to the aforementioned conditions.

**THE HARDEE COUNTY EDUCATION
FOUNDATION, INCORPORATED**

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: _____

By: _____

Lee Mikell, its Chair

Print Name: _____

Date of execution: _____, 2023

Title: _____

Date of execution: _____, 2023

ATTEST: _____

Witness #1:

Signed: _____

Print Name: _____

Witness #2:

Signed: _____

Print Name: _____

This collaboration agreement is between HARDEE COUNTY ECONOMIC DEVELOPMENT COUNCIL, INC., a Florida not for profit corporation d/b/a The Development Group (“Collaborator”) and THE UNIVERSITY OF SOUTH FLORIDA BOARD OF TRUSTEES, a public body corporate (“USF”).

Collaborator is a nonprofit that seeks to increase the viability of startups, existing businesses, and businesses relocating to Hardee County, The Hardee County Economic Development Council offers businesses specially tailored services and manages unique funding streams that allows the organization to recruit businesses to Hardee County. Through engagement and meaningful connections statewide, the Hardee County Economic Development Council strives to create a vibrant Hardee County.

As a public metropolitan research university, USF conducts innovative scholarship, creative activity, research, and delivers a world-class educational experience to its talented and diverse students.

USF hosts Florida SBDC at USF (“SBDC”) which is a location in the statewide Florida Small Business Development Center Network providing businesses in the Tampa Bay region expertise and resources to grow and succeed.

The parties want to collaborate in furtherance of their respective missions.

The parties therefore agree as follows:

1. Period of Performance. The period of performance for this collaboration will start October 1, 2023, and end at midnight September 30, 2024.
2. Points of Contact. The primary points of contact for each party will be as follows:

For Collaborator:

Project Contact:

Denise Grimsley

107 E. Main St

Wauchula, FL 33873

Ph. 863-773-3030

Denise.grimsley@thedevelopmentgroup.net

Administrative Contact:

Denise Grimsley

107 E. Main St

Wauchula, FL 33873

Ph. 863-773-3030

Denise.grimsley@thedevelopmentgroup.net

For USF:

Project Contact:

Carl Hadden

3802 Spectrum Blvd. Suite 201

Tampa, FL 33612

Ph. 813-396-2700

carltonh@usf.edu

Administrative Contact:

Zenya Capellan

3702 Spectrum Blvd. Suite 165

Tampa, FL 33612

Ph. 813-396-2898

zcapellan@usf.edu

Remittance Address:

University of South Florida

Attention: USF Business
Payments

P.O. Box 947568

Atlanta, GA 30394-7568

3. Responsibilities

a. USF shall do as follows:

- (1) Provide an SBDC consultant to provide on-site services the fourth Tuesday of each month.
- (2) Provide an SBDC Associate Director on-site once a month to engage with the Collaborator and other community stakeholders.
- (3) An SBDC representative will attend at least six (6) Hardee County networking events.
- (4) SBDC will coordinate with Hardee County Economic Development staff to facilitate client scheduling.
- (5) Client consultations are confidential.
- (6) SBDC will provide a quarterly report to the Hardee County Economic Development president/CEO that includes consulting hours delivered to Hardee County clients, number of training events available to Hardee County clients, and networking events attended by an SBDC representative.
- (7) An SBDC representative will attend one (1) Hardee County Economic Development board meeting to share information about SBDC services available to Hardee County businesses.

b. Collaborator shall do as follows:

- (1) Provide private meeting space for the SBDC consultant for virtual and in-person client meetings
- (2) Post SBDC signage informing the community SBDC services are available at the Hardee County Economic Development office.
- (3) Promote SBDC events and services to the Hardee County business community.
- (4) List the Florida SBDC at USF on the Hardee County Economic Development/The Development Group Resources webpage.
- (5) Provide Wi-Fi connection to SBDC representative.

4. No Warranty. The parties make no representation or warranty, express or implied, as to the accuracy or completeness of any information or services provided with the training, technical assistance, and other support provided under this agreement, as to the merchantability or fitness of such information or services for a particular purpose, or that the use of such information or services will not infringe any patent, copyright, trademark, or other proprietary rights.

5. Payment. In consideration of USF’s performance under this agreement, the Collaborator shall pay USF a fixed price of \$10,000. USF shall submit an invoice to Collaborator’s administrative contact for each payment per the payment schedule provided in this section. The Collaborator shall issue payment within 30 days after receipt of an acceptable invoice from USF to USF’s remittance address.

| Payment Amount | Invoiced |
|----------------|-----------------|
| \$2,500 | October 1, 2023 |
| \$2,500 | January 1, 2023 |
| \$2,500 | April 1, 2024 |
| \$2,500 | July 1, 2024 |

6. Termination

a. Either party may terminate this agreement without cause upon no less than 30 days’ written notice to the other party.

b. If a party materially breaches one or more provisions of this agreement, then the other party may provide the breaching party written notice of such breach. Upon receipt of such notice, the breaching party must cure such breach or provide a written plan to cure such breach that the other party accepts in writing within a period of seven days or a longer period as may be specified by the other party in their written notice of breach.

c. After such period, if the breaching party has not cured such breach or provided a written plan to cure such breach accepted by the other party in writing, then the other party may terminate this agreement for cause by providing the breaching party written notice of termination specifying the effective date of termination in the notice.

d. If this agreement is terminated for any reason other than a material breach by USF, then on the effective date of termination, Collaborator shall pay USF all payments due through the date of termination. Additionally, if this agreement is terminated by Collaborator without cause or by USF for material breach by Collaborator, then Collaborator shall pay USF the cost of any noncancellable financial commitments made by USF based on funding provided under this agreement, including, any employee salaries or portions thereof dedicated to the performance of USF’s responsibilities under this agreement.

7. Force Majeure

a. For purposes of this agreement, “Force Majeure Event” means, with respect to a party, any event or circumstance, whether or not foreseeable, that was not caused by that party excluding: (i) a strike or other labor unrest that affects only that party, (ii) an increase in prices or other change in general economic conditions, (iii) a change in law, or (iv) an event or circumstance that results in that party’s not having sufficient funds to comply with an obligation to pay money and any consequences of that event or circumstance.

b. If a Force Majeure Event prevents a party from complying with any one or more obligations under this agreement, that inability to comply will not constitute breach if: (i) that party uses reasonable efforts to perform those obligations, (ii) that party’s inability to perform those obligations is not due to its failure to take reasonable measures to protect itself against events or circumstances of the same type as that Force Majeure Event or develop and maintain a reasonable contingency plan to respond to events or circumstances of the same type as

that Force Majeure Event, and (iii) that party complies with its obligations to notify and update the other party and use reasonable efforts to limit damages as described in this section.

c. If a Force Majeure Event occurs, the noncomplying party shall provide the other party prompt written notice of the occurrence of that Force Majeure Event, its effect on performance, and how long the noncomplying party expects it to last. Thereafter the noncomplying party shall update that information as reasonably necessary. During a Force Majeure Event, the noncomplying party shall use reasonable efforts to limit damages to the other party and to resume its performance under this agreement

8. Notices

a. For a written notice under this agreement to be valid, it must be delivered (i) by hand, (ii) by private courier service with proof of delivery and all fees prepaid, (iii) by registered or certified mail with return receipt requested and postage prepaid, or (iv) by email with delivery receipt.

b. For a written notice to a party under this agreement to be valid, it must be addressed to the administrative contact for that party or to another contact specified by that party in a written notice provided to the other party in accordance with this section.

c. A valid written notice under this agreement will be effective when received by the party to which it is addressed. It will be deemed received as follows: (i) if it is delivered by hand, by private courier service with proof of delivery and all fees prepaid, by registered or certified mail with return receipt requested and postage prepaid, or by email with delivery receipt, upon receipt as indicated by the date on the signed or otherwise validated receipt; and (ii) if the party to which it is addressed rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which no written notice was given, then upon that rejection, refusal, or inability to deliver.

d. If a valid written notice is received after 5:00 p.m. on a business day at the location specified in the address for that party, or on a day that is not a business day, then that notice will be deemed received at 9:00 a.m. on the next business day.

9. Intellectual Property

a. For purposes of this agreement, "Intellectual Property" means any:

"Invention" meaning any discovery, process, composition of matter, article of manufacture, know-how, technique algorithm, concepts, devices, design, model, technological development, strain, variety, or culture of any organism, or portion, modification, translation, improvement, or extension of these items, and any mark used in connection with these items; or

"Work" meaning copyrightable material, such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial or graphic works, and sculptural works.

b. Each party will own Intellectual Property created or developed solely by one or more of its employees under this agreement. The parties will jointly own Intellectual Property created or developed by one or more of its employees and one or more of the other party's employees under this agreement. The parties do not acquire any

claims to or rights in any background Intellectual Property created or developed outside this agreement except as specified in this agreement or other agreements.

c. Each party shall provide the other party prompt written notice disclosing any Intellectual Property created or developed under this agreement which is disclosed to it by its employees or to which it otherwise becomes aware.

d. Each party hereby grants the other party an option to acquire an exclusive, worldwide, royalty-bearing license to its rights to any jointly owned Invention created or developed under this agreement. This option shall extend for a period of 90 days after party's receipt of written notice from the other party disclosing said Invention ("Option Period"). To exercise such an option, a party must provide written notice to the other party during the Option Period. Upon the exercise of such an option, the parties shall use reasonable efforts to negotiate a license agreement satisfactory to both parties for a period of 90 days ("Negotiation Period"). If a party fails to exercise its option during the Option Period or the parties fail to reach agreement on the terms of such license within the Negotiation Period, then the party granting the option shall have no further obligation to the other party under this agreement regarding said Invention.

e. Each party hereby grants the other party a royalty-free, paid-up, nonexclusive, nontransferable, irrevocable, worldwide license to use all Intellectual Property created or developed under this agreement as needed for the purpose of fulfilling their responsibilities under this agreement.

f. The parties acknowledge the following:

- (1) that for any Works developed, or for which ownership is acquired, under a federal award, the federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use that work for federal government purposes, and to authorize others to do so; and,
- (2) that for any Inventions conceived or first actually reduced to practice in the performance of work under a federal funding agreement, the federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States that invention throughout the world.

10. Confidential Information

a. For purposes of this agreement, "Confidential Information" means information disclosed to or otherwise accessed by the receiving party that is of an economic, pecuniary, proprietary, strategic, or security value to the disclosing party to maintain its confidentiality and designated as confidential by the disclosing party in accordance with this agreement, regardless of whether it is in verbal, written, or electronic form, compiled or recreated by the receiving party, or retained in a person's memory. Information does not need to be unique, patentable, or copyrightable to be designated as confidential.

b. To be designated confidential, information must be clearly marked as confidential at the time it is disclosed to or otherwise accessed by the receiving party unless (i) a reasonable person knowledgeable in the field would recognize it as confidential under the circumstances in which it is disclosed to or otherwise accessed by the receiving party or (ii) the disclosing party otherwise identifies it as confidential at the time it is disclosed to the

receiving party or upon disclosing party's discovery the receiving party has otherwise accessed it.

c. For any information not clearly marked as confidential at the time it is disclosed to or otherwise accessed by the receiving party that a reasonable person knowledgeable in the field would recognize as confidential under the circumstances or that the disclosing party otherwise identifies as confidential, the disclosing party must provide the receiving party written notice designating the information as confidential within seven days of the information being disclosed to the receiving party or upon disclosing party's discovery the receiving party has otherwise accessed it.

d. During the term of this agreement and three years thereafter, each party shall safeguard the other party's Confidential Information against unauthorized disclosure, publication, dissemination, and use with at least the same degree of care as it exercises with its own such information, but not less than a reasonable degree of care.

e. Each party shall use the other party's Confidential Information as required to perform receiving party's responsibilities under this agreement and not for any other use without prior written consent from the disclosing party. No other right or license in Confidential Information is granted, either expressly or impliedly, to the receiving party under this agreement, including without limitation, any U.S. or foreign patent, copyright, know-how, or other intellectual property interest.

f. Each party shall restrict disclosure of the other party's Confidential Information to individuals within its organization with an appropriate need to know such information to facilitate that party's performance under this agreement and have written agreements in place with such individuals with terms adequate to ensure receiving party's ability to uphold its obligations under this agreement prior to any such disclosure.

g. A designation of confidentiality does not apply to any information which: (i) is publicly available or generally known within the industry through no fault, or failure to act on the part, of the receiving party; (ii) is publicly available or generally known within the industry prior to the date of disclosure to receiving party; (iii) was known by the receiving party, as shown by written documentation, prior to the date of disclosure to the receiving party; (iv) becomes rightfully known by the receiving party from a nonparty source under no obligation to the disclosing party to maintain confidentiality; or (v) is required to be disclosed by applicable law or regulation, including information subject to disclosure under Chapter 119, Fla. Stat.

h. Upon expiration of the confidentiality obligations under this agreement, termination of this agreement, or upon written notice from the disclosing party, the receiving party must promptly return or sanitize, as directed by the disclosing party, any of the disclosing party's Confidential Information in receiving party's possession, including, all copies and associated materials.

i. The parties do not intend this agreement to: (i) limit any individual's right to file a lawsuit with or cooperate in any investigation by the Equal Employment Opportunity Commission or (ii) prohibit or restrict any individual from reporting waste, fraud, or abuse related to the performance under a federal award to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.

11. Protection of Personal Information

a. Each party shall implement reasonable and appropriate safeguards to protect “personal information” as defined in § 501.171, Fla. Stat. and “education records” as defined in § 1002.225, Fla. Stat. and 20 U.S.C. § 1232g disclosed by the other party or otherwise accessed in the performance of this agreement (“Personal Information”), safeguard and prevent any unauthorized use or disclosure of Personal Information in accordance with applicable federal and state law, limit access to Personal Information to individuals with a need to access such Personal Information to perform under this agreement, and ensure that such individuals are aware of the requirements of this section.

b. If a party becomes aware of any unauthorized use or disclosure of Personal Information or has a reasonable belief that substantial risk of unauthorized use or disclosure exists, it will provide written notice to the other party within five days of the discovery of such unauthorized use or disclosure or substantial risk thereof. The parties will cooperate fully to assist the other party in identifying individuals potentially affected by such unauthorized use or disclosure. Each party will be responsible for its own reasonable costs and expenses associated with such cooperation.

12. Publication

a. Each party may publish or present the data, methods, and results generated by or pertaining to the performance of this agreement provided at least 30 days prior to disclosing any such proposed publication or presentation (“Publication”) to any nonparty, a party furnishes the other party with a copy of said Publication to determine if it would compromise the other party’s patent rights or inadvertently divulge the other party’s Confidential Information.

b. If a Publication’s disclosure would compromise the other party’s patent rights, the other party may provide the publishing party a written notice during the 30-day review period to delay disclosure of said Publication up to 60 days in addition to the 30-day review period to allow the other party to take actions necessary to secure patent rights that would otherwise be compromised by such disclosure.

c. If a Publication’s disclosure would inadvertently divulge the other party’s Confidential Information and the other party provides the publishing party written notice during the 30-day review period identifying said Confidential Information, the publishing party shall remove said Confidential Information prior to any such disclosure.

d. If a party does not respond with written notice to the publishing party regarding a Publication during the 30-day review period, the publishing party may disclose such Publication to any nonparty.

e. The parties shall not publish or publicly present any materials or content referencing the other party or any of the other party’s affiliates without the other party’s prior written consent.

f. The parties acknowledge (i) authorship of any Publication should be limited to individuals who have contributed significantly to its intellectual content; (ii) all authors should be able to explain and defend any Publication published in an academic journal; and (iii) individuals who do not meet the requirements for authorship but who have provided a valuable contribution to the work should be acknowledged as appropriate.

13. Indemnification; Limited Waiver of Sovereign Immunity

a. Collaborator shall indemnify USF and its directors, officers, employees, agents, and other representatives against any actual or potential losses or liabilities, including any nonparty claims and reasonable litigation costs, arising out of any negligent acts or omissions of Collaborator or one or more of its directors, officers, employees, agents, and other representatives, any failure to uphold Collaborator's obligations as specified in this agreement, or any misrepresentation by Collaborator in a statement of fact made in relation to this agreement. Collaborator's obligation to indemnify is limited to the amount of the contract price set forth in Section 5.

b. USF has sovereign immunity as a subdivision or agency of the State of Florida. USF assumes risk of injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any of its employees as provided in § 768.28, Fla. Stat. and subject to the limits stated therein.

c. Collaborator acknowledges that this agreement will not be construed as USF consenting to be sued except as provided in this section or a waiver of sovereign immunity by USF or the State of Florida, including its other agencies or subdivisions, beyond that provided in § 768.28, Fla. Stat.

14. Independent Contractors. The parties are independent contractors. Each party shall not have supervision or control over any of the other party's directors, officers, employees, agents, or other representatives in the performance of their duties. Each party shall not be entitled to enter any agreement on behalf of the other party. Each party shall not pledge the credit of the other party or represent having the authority to do so.

15. Assignment. Except with the prior written consent of the other party, each party shall not transfer, including by merger, consolidation, dissolution, or operation of law, (i) any discretion granted under this agreement, (ii) any right to satisfy a condition under this agreement, (iii) any remedy under this agreement, or (iv) any obligations imposed under this agreement. Any such purported transfer absent the prior written consent of the other party is void.

16. Modification; Waiver. No amendment of this agreement will be effective unless it is in writing and signed by the parties. No waiver under this agreement will be effective unless it is in writing and signed by the party granting the waiver. A waiver granted on one occasion will not operate as a waiver on other occasions.

17. Severability. The parties acknowledge that if a dispute between the parties arises out of this agreement or the subject matter of this agreement, they would want the court to interpret this agreement as follows: (i) for any provision that it holds to be unenforceable, by modifying that provision to the minimum extent necessary to make it enforceable or, if that modification is not permitted by law, by disregarding that provision; (ii) if it modifies or disregards an unenforceable provision in accordance with this section, by holding that the rest of the Agreement remains in effect as written; (iii) by holding that any unenforceable provision remains as written in any circumstances other than those in which the provision is held to be unenforceable; and (iv) if modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this agreement, by holding the entire agreement unenforceable.

18. Governing Law. Florida law governs all adversarial proceedings brought by one party against the other party arising out of this agreement or the subject matter of this agreement.

19. Jurisdiction; Convenient Forum; Waiver of Jury Trial. As the exclusive means of bringing adversarial

proceedings to resolve any dispute arising out of this agreement or the subject matter of this agreement, a party may bring such a proceeding in the United States District Court for the Middle District of Florida or a state court sitting in Tampa, Florida. Each party acknowledges that those courts would be a convenient forum. Each party hereby waives the right to and shall not demand a trial by jury for any dispute arising out of this agreement or the subject matter of this agreement.

20. Entire Agreement. This agreement constitutes the entire understanding between the parties with respect to the subject matter of this agreement and supersedes all other agreements, whether written or oral, between the parties with respect to such subject matter.

21. Effectiveness and Date. This agreement will become effective when all parties have signed it. The date of this agreement will be the date this agreement is signed by the last party to sign it. If a party signs this agreement but fails to date their signature, the date another party first receives the signing party's signature will be deemed to be the date the signing party signed this agreement.

Each party is signing this agreement on the date stated opposite of that party's signature.

HARDEE COUNTY ECONOMIC DEVELOPMENT
COUNCIL, INC.

By: _____

Name: W. Lee Mikell

Date

Title: Chairman

THE UNIVERSITY OF SOUTH FLORIDA BOARD OF TRUSTEES

By:

Name: Eric Kern

Date

Title: Director of Sponsored Research

SALE/PURCHASE LAND CONTRACT
(W. Palmetto Street, Wauchula, Hardee County, Florida)

THIS COMMERCIAL LAND CONTRACT (the "Agreement") by and between **ON CALL REALTY MANAGEMENT, LLC**, a Florida limited liability company (the "Seller") and the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a body politic and corporate of the State of Florida (the "Purchaser") is entered into and effective on the date it is last executed by the Seller or Purchaser (the "Effective Date").

RECITALS:

A. Seller is the owner of certain real property located in Hardee County, Florida as more specifically depicted and described on the attached Exhibit "A".

B. Seller wishes to sell to Purchaser, and Purchaser wishes to purchase from Seller the Property as hereafter defined upon the terms, covenants, and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties covenant and agree as follows:

1. **Sale of Property.** Subject to the terms and conditions hereinafter set forth, Seller agrees to sell, convey, and assign (to the extent assignable) to Purchaser, and Purchaser agrees to buy from Seller, that certain real property located in Hardee County, Florida, shown or described on Exhibit "A", which exhibit is attached hereto and made a part hereof, together with all appurtenances, easements and privileges thereto belonging (the "Property").

2. **Definitions.** For purposes of this Agreement, the following terms are defined as hereinafter set forth: "**Closing**" shall mean the execution and delivery of the Transaction Documents and the payment of those funds required to be paid at the time and in the manner required herein for the purchase and sale of the Property. "**Encumbrance**" shall mean and include any charge, claim, condition, equitable interest, lien, option, pledge, security interest, right of first refusal, or restriction of any kind, including any restriction on use, transfer, receipt of income, or exercise of any other attribute of ownership. "**Survey**" shall mean a survey of the Property certified by a Florida Registered Land Surveyor. "**Transaction Documents**" shall mean this Agreement and all of the documents required or contemplated in connection with the Closing of the purchase and sale of the Property.

3. **Price / Deposits / Financing.** The total Purchase Price for the Property shall be **Two Hundred Fifty Thousand Dollars (\$250,000.00)** ("Purchase Price"). The Purchase Price shall be due and payable as follows:

A. Within ten Business Days of the full execution of this Agreement, Purchaser will deposit the amount of Ten Thousand Dollars (\$10,000.00) (the "Earnest Money Deposit") with Wauchula Abstract and Title Co., Inc. as escrow agent (the "Escrow Agent"). After expiration of the Inspection Period, the Earnest Money Deposit shall become non-refundable (except in the event of Seller's default or as otherwise expressly provided in this Agreement). The Earnest Money Deposit shall be credited to the Purchaser at the time of the Closing (as hereinafter defined).

B. The remaining balance of Two Hundred Forty Thousand Dollars (\$240,000.00) shall be paid to Seller at Closing in immediately available funds (Official Bank Check or wire transfer), subject to adjustments and prorations.

4. Execution / Calculation of Time / Time of the Essence.

A. Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which together shall constitute one and the same instrument. This Agreement shall become binding when one or more counterparts shall bear the respective signatures of all of the parties designated as signatories herein. If this Agreement shall be executed in counterparts, then upon the subsequent written request of any signatory, all parties shall join in the signing of one complete original instrument. A facsimile copy of this Agreement evidencing any signatures shall be considered as an original for all purposes.

B. Calculation of Time. All references to days shall mean calendar days unless Business Days are specifically stated. Business Days shall mean Monday through Friday, and exclude legal holidays. If any time period ends on a Saturday, Sunday, or legal holiday, it shall instead be deemed to expire at the end of the next Business Day.

C. Time of the Essence. The Parties have been fully advised and agree that time is of the essence in this Agreement.

5. Purchaser's Inspection Period.

A. Upon the full execution of this Agreement, Purchaser shall have 90 days (herein referred to as "the **Inspection Period**") to inspect the Property. Seller shall provide Purchaser and its agents and consultants reasonable access to the Property, provided that in each such case Seller shall have the right to have a representative of Seller present during the course of each such entry. Purchaser shall have the right to make inquiries of governmental bodies, utility companies, and other third parties.

B. In the event that Purchaser determines, in its sole opinion and sole discretion, that the Property or this Agreement is unacceptable for any reason whatsoever, or an appraisal of the fair market value of the Property is less than the Purchase Price, Purchaser (by and through its designee) shall give Seller written notice before the end of the Inspection Period that it intends to terminate the transaction contemplated by this Agreement, and this Agreement shall forthwith and thereupon be terminated, become null and void, and be of no further force and effect, at which time the Escrow Agent shall return the Earnest Money Deposit to the Purchaser. If Purchaser does not give such notice, the contingency shall have expired, and Purchaser shall proceed to Closing

C. The Parties have been fully advised and agree that time is of the essence with respect to the obligations of the parties under the Inspection Period.

6. Survey and Environmental Site Assessments. During the Inspection Period, Purchaser may obtain, at Purchaser's expense and discretion, a survey of the Property (the "**Survey**") and environmental site assessments (the "**Environmental Assessments**").

A. In the event the Survey reflects any easements, encroachments, rights-of-way, roads, lack of access, deficiencies, gaps or gores or hiatus between any of the parcels included within the Property or between the Property and any adjoining streets or roads, or any other adverse matters not acceptable to Purchaser, Purchaser may terminate this Agreement pursuant to section 5 above or utilize the provisions of section 7.A. below.

B. In the event the Environmental Assessments identify environmental contaminants, Purchaser may at its election terminate this Agreement pursuant to section 5 above.

7. Evidence of Title. Within thirty (30) days of the Effective Date of this Agreement, at Seller's

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expense, a commitment for an owner's title insurance policy (the "**Title Commitment**") shall be obtained agreeing to issue to Purchaser, upon recording of the Warranty Deed, a title insurance policy in the amount of the Purchase Price insuring Purchaser's title to the Property. The Title Commitment shall include legible copies of all documents referenced therein. The Title Commitment shall provide that all "standard exceptions" (including exceptions for taxes (for years prior to the year of Closing)) and assessments not shown in the public records, claims of unrecorded easements, parties other than owner in possession, construction liens and matters disclosed on an accurate Survey, shall be deleted from the Policy when issued. Seller shall provide to the Closing Agent any affidavits, undertakings and other instruments required to delete said standard exceptions, and Purchaser shall provide such Survey with required certifications.

A. Objections to Title. If the Title Commitment contains exceptions to coverage, other than the standard exceptions, which adversely affect title to the Property and render title unmarketable and uninsurable, or if the Survey reveals any defect as set forth in Section 6 hereof, the Purchaser shall notify the Seller, in writing, of Purchaser's objections to such exceptions within ten (10) days after the Title Commitment and copies of all underlying title search instruments and the Survey have been furnished to Purchaser.

B. Curing Title Objections. The Seller shall have thirty (30) days after receipt of such notice in which to cure such defects (the "**Title Curative Period**") and furnish to the Purchaser evidence that same have been cured. The Inspection Period and Closing Date shall be postponed and extended for the Title Curative Period. If the Title defects are cured within the Title Curative Period, the sale and purchase shall be closed within seven (7) days after written notice to Purchaser, but not earlier than the Closing Date. In the event that Seller is unable to cure such defects within the Title Curative Period, Seller may give notice of necessity to extend the Title Curative Period for an additional ninety (90) days. If the objection can be cured by the payment of money, those funds shall be deducted from the sale proceeds to resolve the objection(s). If the objection cannot be cured by the payment of money and the Seller fails to cure such defects within the Title Curative Period (as extended if applicable), or notifies Purchaser in writing that Seller has determined, in Seller's sole discretion, that it is not feasible on a commercially reasonable basis to cure one or more of Purchaser's objections (in which event Seller shall notify Purchaser of its determination within twenty (20) days after its receipt of Purchaser's notice of title objections), Purchaser shall have the option, to be exercised in its sole discretion, to either (i) complete the purchase in accordance with the Agreement and accept title to the Property subject to such objections without any adjustment to the Purchase Price; or (ii) terminate this Agreement by written notice thereof to Seller within seven (7) days after Purchaser's receipt of written notice of Seller's failure to cure Purchaser's objections within the Title Curative Period or Seller's determination that curing Purchaser's objections is not feasible, whereupon this Agreement shall terminate and be of no further force or effect and the Earnest Money Deposit shall be returned to Purchaser.

C. Updates of Title. The Title Commitment shall be updated by endorsement ("**Update Endorsement**") not less than five (5) days before the Closing Date. If such Update Endorsement discloses any new requirement, defect, Encumbrance or other adverse matter, then Purchaser shall notify Seller in writing specifying the new title defect and providing legible copies of said defect not later than five (5) days before the Closing Date and Seller shall have a period of thirty (30) days following the receipt of such notice from Purchaser to cure such new title defect and the Inspection Period and Closing Date shall be extended. If Seller fails to cure any such new title defect, Purchaser shall have the option, to be exercised in its sole discretion, to either: (i) complete the purchase in accordance with the Agreement and accept title to the Property subject to such objections without any adjustment to the Purchase Price; or (ii) terminate this Agreement by written notice thereof to Seller within seven (7) days after Purchaser's receipt of written notice of Seller's failure to cure Purchaser's objections within the Title Curative Period or Seller's determination that curing Purchaser's objections is not feasible, whereupon this Agreement shall terminate and be of no further force or effect and the Earnest Money Deposit shall be returned to the Purchaser, together with all earned interest thereon.

D. Time. The Parties have been fully advised and agree that time is of the essence with respect to the parties' obligations under this Section.

8. Closing Date and Procedure / Documents to be Provided.

A. Closing Date. Unless extended by other provisions of this contract or terminated during the Inspection Period, the Closing Date contemplated by this Agreement shall be on or before 60 days following the end of the Inspection Period; provided, however, that the parties may agree to an earlier Closing Date. Closing shall occur remotely, or such place as the parties may agree. Closing / Title Agent shall be Wauchula Abstract & Title Co., Inc. The parties have been fully advised and agree that time is of the essence with respect to the Closing Date.

B. Closing Procedure.

1. Seller. At Closing, if not previously delivered to Purchaser, Seller shall execute and deliver to Purchaser:
 - (i) A fully executed Warranty Deed in favor of the Hardee County Industrial Development Authority;
 - (ii) An owner's title affidavit. The owner's title affidavit shall attest to the absence, unless otherwise provided for herein, of any lien or Encumbrance upon the Property to be conveyed known to Seller and improvements or repairs to the Property made within ninety (90) days immediately preceding date of Closing. However, if the Property has been improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all potential lienors and an affidavit setting forth the names of all potential lienors and affirming that all charges for improvements or repairs have been paid or will be paid at the Closing;
 - (iii) Bills of Sale as to personal property conveyed, if any;
 - (iv) Tenant Estoppel Certificate and letters notifying of change in ownership to each tenant or lessee, if any; and
 - (v) Any other document reasonably required pursuant to the terms of this Agreement.
2. Purchaser. At Closing, Purchaser shall deliver to Seller the following:
 - (i) The balance of the Purchase Price payable at the Closing, as adjusted for prorations and taxes and hold-backs, in the manner required under this Agreement;
 - (ii) Instructions from Purchaser directing payment of the Earnest Money Deposit and the Purchase Price and all other amounts due at Closing, or thereafter in accordance with the provisions of this Agreement, to Seller or any other person as Seller shall designate; and
 - (iii) Any other document reasonably required pursuant to the terms of this Agreement.
3. Seller and Purchaser. Seller and Purchaser shall, on the Closing Date, each execute, acknowledge (as appropriate) and deliver the following documents:
 - (i) Any transfer tax returns required under any tax laws applicable to the transactions contemplated herein;

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- (ii) The Closing Statement; and
- (iii) Any other affidavit(s), document or instrument required to be delivered by Seller or Purchaser pursuant to the terms of this Agreement.

9. Costs. At the time of Closing, Purchaser shall pay to Seller the total Purchase Price for the Property, less prorations and adjustments in accordance with this Agreement. Taxes and governmental assessments for the Property shall be prorated through the day before Closing. Purchaser shall have the option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing. Taxes shall be prorated based on the current year's tax. If Closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on prior year's tax. A tax proration based on an estimate shall, at request of either party, be readjusted upon receipt of current year's tax bill. This covenant shall survive Closing.

A. Seller shall pay for the following items: (i) the documentary stamp tax due on the Warranty Deed; (ii) the cost of the premium due on the Owner's Title Insurance required under this Agreement, along with all related title and search costs related thereto; (iii) Seller's legal fees and expenses; (iv) any broker's commission; and (v) any costs of curing title defects.

B. Purchaser shall pay for the following items: (i) the cost of all inspections, tests and studies undertaken by Purchaser in connection with its investigation, including the cost of any Survey; (ii) the recording fees for the Warranty Deed; and (iii) Purchaser's legal fees and expenses.

10. Seller's Delivery of Property Data. Within ten (10) days of the execution of this agreement, at Seller's sole cost and expense, Seller shall provide Purchaser with copies of all of the following documents that it has in its care, custody or control:

A. All documentation pertaining to the physical condition, development and operation of the Property in Seller's possession and control, including plats and surveys, plans and specifications for improvements, any and all environmental, asbestos, ADA, engineering, mechanical, electrical, structural, soil or other similar reports covering all or any portion of the Property, and copies of any and all notices Seller has received from any governmental authority with respect to them; and

B. Copies of all leases, licenses, and occupancy agreements in effect for use or possession of any portion of the Property; and

C. Copies of all management, service, supply, maintenance, parking, equipment service, equipment rental, cleaning, garage or parking operation, license or franchise agreements, or other contracts pertaining to the Property.

Seller's delivery of the documents in its care, custody or control shall be a representation that the documents and information provided are true, correct and complete in all material respects. If Seller does not timely deliver any document required to be delivered in this section 10, the Inspection Period and Closing will be extended one day for each day of delay.

11. Duties and Rights of Escrow / Closing Agent.

A. Purchaser and Seller authorize Escrow Agent or Closing Agent (each referenced as "Agent" for purposes of this Section), and Agent agrees by acceptance hereof, to hold all monies paid in escrow and to disburse the same in accordance with the terms and conditions of this Agreement. Agent undertakes to perform only such duties as are expressly set forth in this Agreement and no implied duties

or obligations will be read into this Agreement against Agent.

B. Agent may act in reliance on any writing or instrument or signature that it, in good faith, believes to be genuine; may assume the validity and accuracy of any statement contained in such a writing or instrument; and may assume that any person purporting to give any writing, notice or instructions with respect to this Agreement has been duly authorized to do so.

C. In the event of doubt as to its duties or liabilities under the provisions of this Agreement, Agent shall have the right to withhold payment of the monies which are the subject of this escrow until the parties mutually agree to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties thereto, or Agent may deposit all monies then held pursuant to this Agreement, less the reasonable attorneys' fees and costs for the interpleader or similar action, with the Clerk of the Circuit Court of Hardee County, and upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate. Purchaser and Seller agree that Agent shall not be liable to any party or person whomsoever for misdelivery to Purchaser or to Seller of money subject to this escrow, unless such misdelivery shall be due to a willful breach of Agent's duties under this Agreement or gross negligence by Agent, and the parties will fully indemnify Agent from any and all expense, cost, claim, or charges it may incur, including its reasonable attorneys' fees and costs, subject to the limitations of s. 768.28, Florida Statutes.

12. Default and Notice to Cure.

A. If Purchaser defaults in the payment of the Purchase Price, Seller shall have the right to receive disbursement of the Earnest Money Deposit if not previously delivered, and terminate this Agreement. Upon such delivery of the Earnest Money Deposit in accordance with the preceding sentence, this Agreement shall terminate and neither party hereto shall have any further obligations hereunder except for those that are expressly provided in this Agreement to survive the termination hereof.

B. If Seller defaults in any of its material obligations to be performed on or prior to the Closing Date, Purchaser shall have the right (i) to receive a return of the Earnest Money Deposit and terminate this Agreement, or (ii) to seek specific performance of Seller's obligations hereunder (it being expressly acknowledged that the remedy of specific performance is an appropriate remedy in the event of a default by Seller under this Agreement). Upon such return and delivery of the Earnest Money Deposit in accordance with Clause (i) of the preceding sentence, if such remedy is elected by Purchaser, this Agreement shall terminate and neither party hereto shall have any further obligations hereunder except for those that are expressly provided in this Agreement to survive the termination hereof.

C. In connection with any litigation arising out of the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to recover from the other, all costs incurred, including reasonable attorneys' fees, including without limitation trial and appellate proceedings, subject to the limitations of Section 768.28, Florida Statutes.

D. The provisions of this Section 12 shall survive the termination hereof.

13. Condemnation. If, prior to the Closing Date, any part of the Property is taken by an entity other than Purchaser (other than a temporary taking), or if Seller shall receive an official notice from any governmental authority, having eminent domain power over the Property, of its intention to take by eminent domain proceeding any part of the Property (a "**Taking**"), then Purchaser shall have the option, exercisable within ten (10) days after receipt of notice of such Taking, to terminate this Agreement by delivering written notice thereof to Seller, whereupon Purchaser's deposit shall be returned and this Agreement shall be deemed cancelled and of no further force or effect, and neither party shall have any further rights or liabilities against or to the other except pursuant to the provisions of this Agreement, which are expressly

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provided to survive the termination hereof. If a Taking shall occur and Purchaser shall not have timely elected to terminate this Agreement, then Purchaser and Seller shall consummate this transaction in accordance with this Agreement, without any abatement of the Purchase Price or any liability or obligation on the part of Seller by reason of such Taking, provided, however, that Seller shall, on the Closing Date, (i) assign and remit to Purchaser, and Purchaser shall be entitled to receive and keep, the net proceeds of any award or other proceeds of such Taking which may have been collected by Seller as a result of such Taking less the reasonable expenses incurred by Seller in connection with such Taking, or (ii) if no award or other proceeds shall have been collected, deliver to Purchaser an assignment of Seller's right to any such award or other proceeds which may be payable to Seller as a result of such Taking and Purchaser shall reimburse Seller for the reasonable expenses incurred by Seller in connection with such Taking.

14. Notices. Any notices provided for in this Agreement shall be in writing to the address set forth below and shall be effective (a) upon receipt or refusal if delivered personally; (b) one (1) Business Day after deposit with a recognized overnight courier or (c) two (2) Business Days after deposit in the U.S. mail.

If to Seller:

Juan Curci, Manager
On Call Realty Management, LLC
3052 University Parkway
Sarasota, Florida 34243
Telephone: _____

If to Escrow / Closing / Title Agent:

Wauchula Abstract & Title Co., Inc.
Attn: _____
123 S. 9th Avenue
Wauchula, Florida 33873
Telephone: 863-773-9054
Facsimile: 863-773-5857
mconerly@wauchulaabstract.com

If to Purchaser:

Hardee County Industrial Development Authority
107 East Main Street
Wauchula, Florida 33873
Telephone: 863-773-3030

with copy to Purchaser's legal counsel:

Swaine, Harris & Wohl, P.A.
Attn: Shannon L. Nash
425 South Commerce Avenue
Sebring, Florida 33870
Telephone: 863-385-1549
Facsimile: 863-471-0008
shannon@heartlandlaw.com

Either party may change their address by written notice given to the other as hereinabove provided. Notwithstanding the foregoing, any notice sent to the last designated address of the party to whom a notice may be or is required to be delivered hereunder shall not be deemed ineffective if actual delivery cannot be made due to an unnoticed change of address of the party to whom the notice is directed or the failure or refusal of such party to accept delivery of the notice.

15. Covenants: Preclosing Rights and Obligations of Seller.

- A. From the Effective Date of this Agreement until the Closing Date, Seller shall:
 - i. not take any action which will adversely affect title to the Property;
 - ii. notify Purchaser of any material changes discovered by Seller to the representations or warranties made by Seller. In the event that Purchaser learns, through Seller or otherwise, prior to the Closing Date, that any of Seller's warranties or representations are materially incorrect, Purchaser shall have the right to terminate this Agreement and all deposits shall be immediately returned in full to Purchaser;

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- iii. not enter into any lease, license or other agreement for occupancy of the Property, unless Purchaser has previously consented in writing;
- iv. not enter into any service contracts which survive the Closing, unless Purchaser has previously consented in writing.

B. The provisions of this Section 15 shall survive the Closing.

16. Warranties, Representations and Disclosures of Seller. Seller makes the following warranties, representations and disclosures to Purchaser, which representations and disclosures shall be true on the Effective Date and shall also be true at the time of Closing:

A. Authority. Seller is lawfully organized and has all requisite power and authority to execute and deliver this Agreement.

B. Marketable Title. As of the Closing Date, Seller shall have the ability to deliver good, marketable and insurable title to the Property.

C. Validity. This Agreement, when executed, will constitute the legal, valid and binding obligation of Seller, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law.)

D. Condemnation. Seller has no knowledge of any pending or threatened condemnation or similar proceeding affecting the Property, nor does Seller have knowledge that any such action is presently contemplated.

E. Pending Litigation/Violations. Seller has no knowledge of any legal actions, suits, code enforcement, regulatory actions, or other legal or administrative proceedings, including bankruptcy proceedings, pending or threatened, against the Property or Seller, and Seller is not aware of any facts which might result in any action, suit or other proceeding against the Property or Seller that could result in a lien encumbering the Property or any part thereof.

F. Other Obligations and Assessments. Seller has no knowledge of any outstanding impact fees, obligations, assessments, fair share agreements or capital recovery obligations for sewer, water, drainage, roadway or other improvements which affect the Property by reason of any past or existing improvements on the Property.

G. Special Assessments. There are no outstanding special assessments with respect to the Property. Any special assessment lien that has not been certified, confirmed and ratified as of Closing shall be assumed by Purchaser.

H. Development Rights. Seller has not transferred any development rights with respect to the Property.

I. Historic District/Landmark. No portion of the Property has been designated a historic landmark.

J. Environmental Matters. Except as identified in the Notice of Remediation, Seller has no knowledge of any adverse environmental condition, which shall include the presence of Hazardous Materials in violation of any Environmental Laws, relating to the Property and has received no notice from any regulatory body or authority have jurisdiction regarding any such adverse environmental condition of the Property.

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"**Hazardous Materials**" shall mean any solid, gaseous or liquid wastes (including hazardous wastes), regulated substances, pollutants or contaminants or terms of similar import, as such terms are defined in any Environmental law, and shall include, without limitation, any petroleum or petroleum products or by-products, flammable explosives, radioactive materials, asbestos in any form, polychlorinated biphenyls and any other substance or material which constitutes a threat to health, safety, property or the environment or which has been or is in the future determined by any governmental entity to be prohibited, limited or regulated by any Environmental Law.

"**Environmental Law**" shall mean any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any hazardous materials, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, and regulations, including any state or local counterparts or equivalent, in each case, order, decrees, permits, licenses and deed restrictions now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act (codified in scattered sections of 26 U.S.C., 33 U.S.C., 42 U.S.C. and 42 U.S.C. Section 9601 et seq.) ("CERCLA"); (ii) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.); (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. Section 2061 et seq.); (v) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vi) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vii) the Safe Drinking Water Act (21 U.S.C. Section 349, 42 U.S.C. Section 201 and Section 300f et seq.); (viii) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.); (ix) the Superfund Amendments and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendment and Reauthorization Act (40 U.S.C. Section 1101 et seq.); (xi) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); (xii) the Occupational Safety & Health Act (29 U.S.C. Section 655 et seq.); (xiii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (xiv) the Noise Control Act (42 U.S.C. Section 4901 et seq.); and (xv) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 1100 et seq.).

K. Contracts/Leases. Seller has not entered into any existing, in force contracts for the sale of the Property other than this Agreement. Seller has received no notice of and has no knowledge of any rights of first refusal, right of first offer, or options to purchase any of the Property or any other rights or agreements that may delay or prevent this transaction. No person or entity other than Seller is entitled to possession of the Property except for lease or occupancy agreement that have been provided to Purchaser. In the case of a lease or occupancy agreement, Seller shall provide Purchaser a Tenant Estoppel Certificate and letters notifying the tenant of the change in ownership for each tenant. If a tenant refuses to execute an estoppel certificate, Seller shall, to the satisfaction of Purchaser, certify that information regarding the tenant's lease is correct. Other than as certified by estoppel certificate for a lease or occupancy agreement, Seller warrants that there is in effect no contract or agreement relating to occupancy, management, or operation of the Property that cannot be terminated on or prior to the Closing Date.

L. Mechanic's Liens. There has been no labor or materials of any kind furnished to or for the benefit of the Property for which payment in full has not been made or with respect to which a construction lien may be filed against the Property.

M. Other Agreements. There is no note, mortgage, security agreement, or other agreement affecting the Property, including leases, that requires the consent of any party (or Seller shall provide such consent, if necessary, at its expense) as a result of the sale contemplated by this Agreement, and that there are no defaults existing in any such agreements affecting the Property.

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It shall be a condition precedent to Purchaser's obligation to close hereunder that the representations and warranties of Seller set forth in this Agreement will be true in all material respects on the Closing Date. Should Purchaser determine prior to the Closing Date that any representation or warranty set forth herein is inaccurate in a material way, then Purchaser shall promptly provide written notice to Seller of such inaccuracy, and provided that Seller does not otherwise elect or is unable to cure such inaccuracy, Purchaser shall have the option of either waiving any claim against Seller by virtue of such inaccuracy and proceeding to Closing without any adjustment to the Purchase Price, or Purchaser may terminate this Agreement, by written notice to Seller within ten (10) days following written notice from Seller that Seller cannot or will not cure any inaccuracy, whereupon this Agreement and all rights and obligations of the parties hereunder shall thereupon cease and be deemed null and void. In the event of such a termination by Purchaser pursuant to this section, the Earnest Money Deposit shall be immediately returned to Purchaser.

Seller shall indemnify Purchaser, its successors and assigns, against, and shall defend and hold Purchaser, its successors and assigns harmless from, any expenses or damages, including reasonable attorneys' fees, that Purchaser incurs because of the breach of any of the representations, disclosures, and warranties set forth in Section 16 A – 16 M above, whether such breach is discovered before or after Closing. Seller shall further indemnify and hold harmless Purchaser, its successors and assigns, from all claims, demands, damages, fines, costs, cleanup, attorney's fees, and court costs arising from discharge (either intentional or accidental) of Hazardous Materials by Seller, its agents and representatives, to the soil, air, water, or wastewater treatment facility, whether known or unknown at the time at the time of Closing.

17. Warranties and Representations of Purchaser. Purchaser hereby makes the following warranties and representations to Seller, which warranties and representations shall be true on the Effective Date and shall also be true at the time of Closing.

A. Purchaser is an industrial development authority created pursuant to Part III, Chapter 159, Florida Statutes, and a dependent special district authorized by resolution of the Hardee County Board of County Commissioners, and is duly organized, validly existing, and in good standing under the laws of the State of Florida, and has all requisite power and authority to execute and deliver this Agreement.

B. The execution, delivery and performance of this Agreement and the consummation of the transaction contemplated herein by the Purchaser have been duly authorized and approved by all necessary action. This Agreement, when executed, will constitute the legal, valid and binding obligation of Purchaser, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

It shall be a condition precedent to Seller's obligation to close hereunder that the representations and warranties of Purchaser set forth in this Agreement will be true in all material respects on the Closing Date. Should Seller determine prior to the Closing Date that any representation or warranty set forth herein is inaccurate in a material way, then Seller shall promptly provide written notice to Purchaser of such inaccuracy, and provided that Purchaser does not otherwise elect to cure such inaccuracy, Seller shall have the option of either waiving any claim against Purchaser by virtue of such inaccuracy and proceeding to Closing without any adjustment to the Purchase Price, or Seller may terminate this Agreement, by written notice to Purchaser within ten (10) days following written notice from Purchaser that Purchaser cannot or will not cure any inaccuracy, whereupon this Agreement and all rights and obligations of the parties hereunder shall thereupon cease and be deemed null and void and Purchaser shall be deemed in default.

18. Purchaser's Conditions Precedent. The following are conditions precedent to Purchaser's obligations to close this transaction:

A. Marketable Title. Seller's delivery of good, marketable and insurable fee simple title to the

Property.

B. Document Delivery. Seller shall have executed and delivered all of the documents required of Seller under this Agreement to Purchaser, including but not limited to an acceptable Warranty Deed, sufficient and acceptable to the Closing Agent / title agent to address the elimination of standard exceptions for "gap" coverage, construction liens and possession.

C. Performance of Covenants. Seller shall have performed all of its material covenants, agreements and obligations under this Agreement.

D. Truth of Representations and Warranties. All of Seller's representations and warranties set forth in this Agreement shall be true and correct in all material respects though first made as of the date of the Closing.

E. Removal of Personal Property. Seller shall remove all personal property, unless otherwise set forth herein, from the Property. This obligation includes, but is not limited to, the requirement that the residence be vacant and in broom clean condition.

Purchaser may waive any or all of the preceding conditions precedent. With respect to those conditions precedent of which require the cooperation or subsequent action of Seller, Seller shall undertake such cooperation or action in good faith. If, notwithstanding the parties' commercially reasonably diligent effort, all of the following conditions precedent are not satisfied on or before the Closing Date, Purchaser shall have the right and option to either (i) waive any such unsatisfied condition precedent and close this Agreement in accordance with its terms without any adjustment to the Purchase Price, or (ii) terminate this Agreement on such Closing Date. If Purchaser terminates this Agreement because of the failure to satisfy or waive any such condition precedent all rights and obligations of the parties hereunder to each other shall end and this Agreement shall be of no further force or effect. In the event of such a termination, the Earnest Money Deposit shall be returned to Purchaser.

19. Seller's Conditions Precedent. The following are conditions precedent to Seller's obligation to close this Transaction:

A. Delivery of Documents. Purchaser shall have executed and delivered to Seller all of the documents required of Purchaser under this Agreement.

B. Performance of Covenants. Purchaser shall have performed all of its material covenants, agreements and obligations under this Agreement.

C. Payment of Purchase Price. Purchaser shall have delivered to Seller the balance of the Purchase Price and the Escrow Agent shall have delivered to Seller the Earnest Money Deposit.

D. Truth of Representations and Warranties. All of Purchaser's representations and warranties set forth in Section 17 of this Agreement shall be true and correct in all material respects.

Seller may waive any or all of the preceding conditions precedent. With respect to those conditions precedent of which require the cooperation or subsequent action of Purchaser, Purchaser shall undertake such cooperation or action in good faith. If, notwithstanding the parties' commercially reasonably diligent effort, all of the following conditions precedent are not satisfied on or before the Closing Date, Seller shall have the right and option to either (i) waive any such unsatisfied condition precedent and close this Agreement in accordance with its terms without any adjustment to the Purchase Price, or (ii) terminate this Agreement on such Closing Date. If Seller terminates this Agreement because of the failure to satisfy or waive any such condition precedent all rights and obligations of the parties hereunder to each other shall

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end and this Agreement shall be of no further force or effect. In the event of such a termination pursuant to this section, the Earnest Money Deposit shall be retained by Seller (or if not previously disbursed, the Earnest Money Deposit shall be immediately disbursed to Seller).

20. Miscellaneous.

A. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, representatives, successors and assigns; and no third party shall have any rights, privileges or other beneficial interest in or under this Agreement. Purchaser may assign its rights and obligations under this Agreement without condition or necessity for prior written consent from Seller. Seller may assign its rights and obligations under this Agreement with written consent of Purchaser, which consent will not be unreasonably withheld. As used herein, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

B. Broker's Commissions. Seller and Purchaser warrant and represent to each other that no broker or other person expecting or due a fee or commission related to the transaction herein contemplated was involved in this Agreement. Each party shall indemnify the other party against any claim of any broker claiming by, through, or under the indemnifying party. This indemnification clause is not intended nor shall it be construed to waive the Purchaser's rights and immunities or exceed the limitations provided by s. 768.28, Florida Statutes. This warranty and representation shall survive delivery of the Deed and Closing of this transaction.

C. Entire Agreement. This Agreement, including the Exhibit attached hereto, contains the entire Agreement between Seller and Purchaser and all other representations, negotiations and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by instrument, in writing, executed by all parties hereto.

D. 1031 Exchange. If Seller wishes to enter into an IRC Section 1031 like-kind exchange with respect to the Property ("Exchange"), the Purchaser agrees to cooperate, including the execution of documents; provided (1) the Purchaser shall incur no liability or expense related to the Exchange and (2) the Closing shall not be contingent upon, nor extended or delayed by, such Exchange.

E. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

F. Mold. Mold is naturally occurring and may cause health risks or damage to property. This Agreement is not contingent upon testing for the existence of toxic mold unless specifically provided.

G. Risk of Loss. Loss or damage to all improvements shall be at the risk of Seller until Closing. In the event of substantial damage to the Property prior to the Closing Date or any condemnation of the Property, the Purchaser may either close this transaction and accept the Seller's interest in the insurance or condemnation proceeds or terminate this Agreement and be entitled to the return of the deposit monies paid by the Purchaser together with all interest earned thereon. For purposes of this Agreement, substantial damage shall mean damage to at least 10% of the Property.

H. Waiver. No waiver hereunder of any condition or breach shall be deemed to be a continuing waiver or a waiver of any subsequent breach

I. Severability. In case anyone or more provisions contained in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

J. Florida Contract. This Agreement shall be deemed a Florida contract and construed according to the laws of such state, regardless of whether this Agreement is being executed by any of the parties hereto in other states or otherwise. The proper and exclusive venue for any action concerning this Agreement shall be the Circuit Court in and for Hardee County, Florida. Except as specifically set forth herein, Purchaser does not waive sovereign immunity and Purchaser's liability, if any, is subject to and limited by Section 768.28, Florida Statutes.

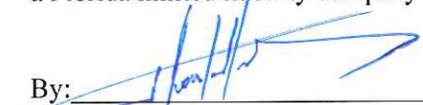
K. Time for Acceptance. Any offer or counter-offer made hereunder must be accepted via counter-signature within fifteen (15) days of the date signed by the first party, unless the offer or counter-offer is sooner rescinded. Any offer or counter-offer that is not timely accepted shall be deemed expired and revoked. Seller acknowledges that Purchaser is dependent special district operating under applicable laws of the State of Florida, including Chapter 159, Florida Statutes, and further acknowledges that official acts by Purchaser are authorized by a governing body at duly noticed meetings open to the public. No contract or agreement, whether in writing or verbal, is binding upon Purchaser until reviewed and accepted by the Purchaser's governing body and executed by all parties.

Seller:

Purchaser:

ON CALL REALTY MANAGEMENT, LLC,
a Florida limited liability company

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: 

Juan Curci, Manager

By: _____
Lee Mikell, Chair

Date of execution: 08 - 18, 2023

Date of execution: _____, 2023

ATTEST:

Name: _____



Exhibit A

DESCRIPTION OF REAL PROPERTY
(Legal description subject to survey and title work)

Parcel One (Parcel No. 04-34-25-0260-00016-001A):

Begin at the NE corner of Lot 1, Block 16 of the Carlton & McEwen Addition to the City of Wauchula, Florida, and run thence Westerly along the North boundary line of said Lot 1, 50 feet, thence Southerly parallel to the West boundary line of said Block 16, 131 feet, thence Easterly parallel with the North boundary line of said Lot 1, 50 feet, thence Northerly parallel with the West boundary line of said Block 16, 131 feet to Point of Beginning, all in Block 16, Carlton & McEwen Addition to the City of Wauchula, Hardee County, Florida.

Parcel Two (Parcel No. 04-34-25-0260-00016-001B):

The West 97 feet of Lots 1 to 3, and the West 97 feet of Lot 4, less the South 33.5 feet thereof, Block 16, Carlton & McEwen Addition to the City of Wauchula, Florida, as per recorded plat.

Parcel Three (Parcel No. 04-34-25-0260-00016-001C):

That portion of Block 16 of the Carlton and McEwen Addition to the City of Wauchula, Florida, as recorded in the public records of Hardee County, Florida, lying East of an alley running through said Block and further described as follows: Begin at the NE corner of said fraction Block 16 and run West 74 feet; thence South 205 feet; thence East 291/2 feet; thence in a Northeasterly direction to P.O.B., as per plat thereof recorded in Plat Book 1, Page 2-11, also in Plat Bar A-32, in the Office of the Clerk of Courts of Hardee County, Florida, being more particularly described as follows:

That portion of Block 16 of the Carlton and McEwen Addition to the City of Wauchula, Florida, as recorded in the public records of Hardee County, Florida, lying East of an alley running through said Block 16 and described as follows: Begin at the Northeast corner of said Block 16; thence run along the East boundary of said Carlton and McEwen Addition on an amended bearing of S 08°41'50" E a distance of 209.83 feet to the South line of the East 1/2 of said Block 16; thence run S 69°01'33" W a distance of 29.50 feet to the Southwest corner of the East 1/2 of said Block 16; thence run along the West line of the East 1/2 of said Block 16, N 20°56'28" W a distance of 205.00 feet to the Northwest corner of the East 1/2 of Block 16; thence run along the North line of said Block 16, N 69°00'00" East distance of 74.00 feet to the point of beginning.

Parcel Four (Parcel No. 04-34-25-0260-00016-0002):

A parcel of land being a portion of Block 21 of the Plat of the Town of Wauchula, Florida, as per plat thereof recorded in Plat Book 1, Page 1-29b, also in Plat Bar A-22, in the public records of Hardee County, Florida, being more particularly described as follows:

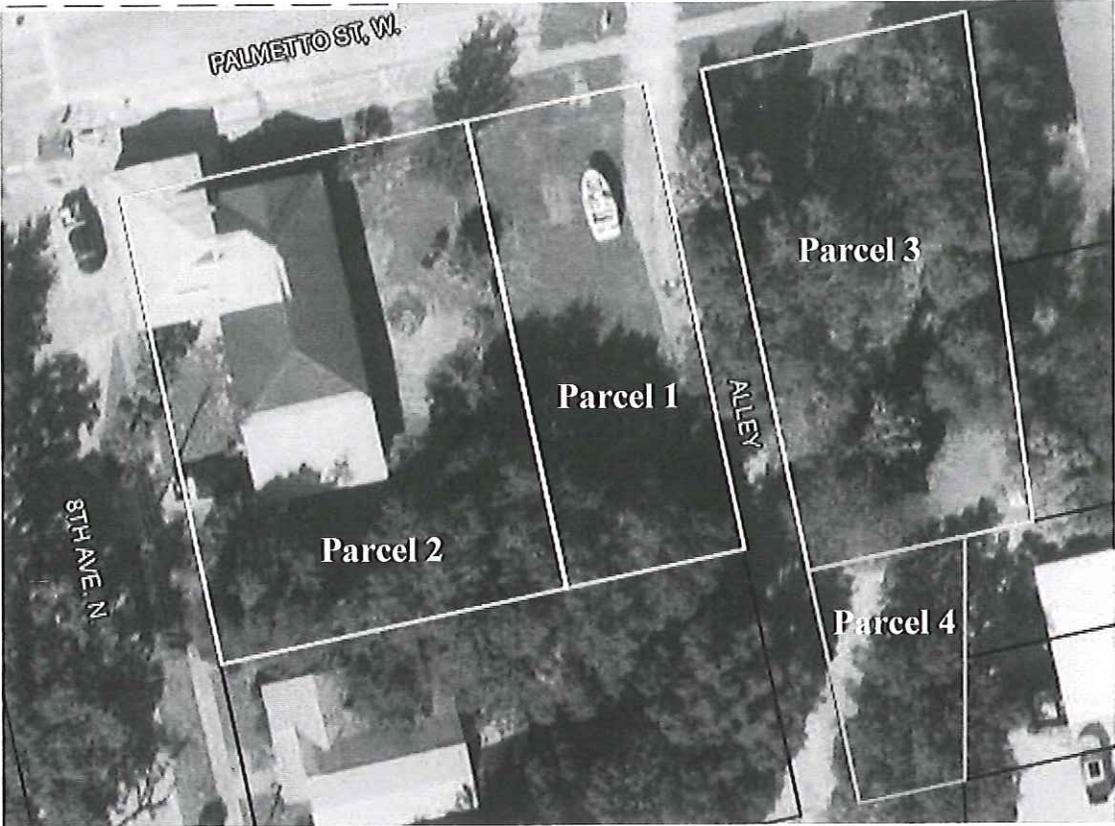
Commence at the Northeast corner of said Block 21, thence S 69°00'00" W, along the North line of said Block 21, a distance of 72.93 feet to the Northwest corner of said Block 21, said point also being the Northeast corner of Block 16 of Carlton and McEwen Addition to the City of Wauchula and the point of beginning; thence S 08°41'50" E along the West line of said Block 21 of the Plat of the Town of Wauchula, also being the East line of said Block 16 of Carlton and McEwen Addition to the City of Wauchula, 141.35 feet; thence N 69°00'00" E, 19.06 feet; thence N 16°25'20" W, 138.55 feet to the point of beginning.

Addresses: 211, 217, 207, and 0 W. Palmetto Street, Wauchula, Hardee County, Florida

Parcel ID: 04-34-25-0260-00016-001A; 04-34-25-0260-00016-001B; 04-34-25-0260-00016-001C; and 04-34-25-0260-00016-0002

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Depiction:



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RESOLUTION NO. 2023-06

A RESOLUTION OF THE HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY APPROVING AND AUTHORIZING THE EXECUTION OF A SALE/PURCHASE CONTRACT FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 211, 217, 207, AND 0 W. PALMETTO STREET, WAUCHULA, HARDEE COUNTY, FLORIDA; AUTHORIZING THE TRANSFER OF FUNDS AND CONFIRMING THE AUTHORITY OF THE CHAIR OR VICE-CHAIR TO SIGN ALL DOCUMENTS NECESSARY FOR CLOSING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Hardee County Industrial Development Authority (“IDA”) desires to purchase from On Call Realty Management, LLC, a Florida limited liability company (the "Seller"), and Seller desires to sell and convey to IDA, certain real property commonly known as 211, 217, 207, and 0 W. Palmetto Street, Wauchula, Hardee County, Florida, as more specifically depicted or described in the Sale/Purchase Contract attached hereto as Exhibit “A” (the “Property”);

WHEREAS, the Property is located approximately one block North of historic Main Street of the City of Wauchula, Hardee County, Florida;

WHEREAS, acquisition of the Property by the IDA will foster economic development in Hardee County through improvement and development in a growing and walkable business district; and

WHEREAS, the IDA desires to authorize the execution and delivery of the purchase contract and confirm the authority of its signatory for purposes of the closing as relates to the Property.

NOW, THEREFORE, BE IT RESOLVED BY the Board of the Hardee County Industrial Development Authority that:

1. The above recitals are true and correct.
2. The acquisition of the Property will serve the public purpose of advancing the economic prosperity and general welfare of Hardee County and its residents.
3. The execution by the Chair or Vice-Chair of the Sale/Purchase Contract attached hereto as Exhibit “A” (the “Contract”), as well as the delivery of the Contract following its execution, is hereby authorized.
4. The Chair, Lee Mikell, or Vice Chair, Joseph B. Cherry, of the Hardee County Industrial Development Authority are each individually hereby authorized to make transfer of funds and to sign documents necessary to effectuate the IDA’s responsibilities pursuant to and under the Contract, including specific authorization to

sign all documents and to transfer all funds necessary to effectuate the Closing of the purchase of the Property pursuant to the terms of the Contract.

5. This resolution shall take effect immediately upon its passage.

APPROVED AND ADOPTED this 14th day of September, 2023 by the Board of the Hardee County Industrial Development Authority.

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: _____
Lee Mikell, its Chair

ATTEST:
By: _____
Name: _____

COMMERCIAL SALE/PURCHASE CONTRACT

(205 State Road 62 & 3 parcels at 0 State Road 62, Wauchula, Hardee County, Florida)

THIS COMMERCIAL LAND CONTRACT (the "Agreement") by and between **TRUSSWORKS REALTY FLORIDA, LLC**, a Florida limited liability company, (the "Purchaser") and the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a body politic and corporate of the State of Florida (the "Seller") is entered into and effective on the date it is last executed by the Seller or Purchaser (the "Effective Date").

RECITALS:

A. Seller is the owner of certain real property located in Hardee County, Florida as more specifically depicted and described on the attached Exhibit "A".

B. Seller wishes to sell to Purchaser, and Purchaser wishes to purchase from Seller the Property as hereafter defined upon the terms, covenants, and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties covenant and agree as follows:

1. **Sale of Property.** Subject to the terms and conditions hereinafter set forth, Seller agrees to sell, convey, and assign (to the extent assignable) to Purchaser, and Purchaser agrees to buy from Seller, that certain real property (including commercial building) located in Hardee County, Florida, shown or described on Exhibit "A", which exhibit is attached hereto and made a part hereof, together with all appurtenances, easements, and privileges thereto belonging (the "Property").

2. **Definitions.** For purposes of this Agreement, the following terms are defined as hereinafter set forth: "**Closing**" shall mean the execution and delivery of the Transaction Documents and the payment of those funds required to be paid at the time and in the manner required herein for the purchase and sale of the Property. "**Encumbrance**" shall mean and include any charge, claim, condition, equitable interest, lien, option, pledge, security interest, right of first refusal, or restriction of any kind, including any restriction on use, transfer, receipt of income, or exercise of any other attribute of ownership. "**Survey**" shall mean a survey of the Property certified by a Florida Registered Land Surveyor. "**Transaction Documents**" shall mean this Agreement and all of the documents required or contemplated in connection with the Closing of the purchase and sale of the Property.

3. **Price / Deposits / Financing.** The total Purchase Price for the Property shall be **Eight Hundred Thousand Dollars (\$800,000.00)** ("Purchase Price"). The Purchase Price shall be due and payable as follows:

A. Within ten Business Days of the full execution of this Agreement, Purchaser will deposit the amount of Ten Thousand Dollars (\$10,000.00) (the "Earnest Money Deposit") with J. Steven Southwell, PA as escrow agent (the "Escrow Agent") who will also serve as title agent and closing agent. The Earnest Money Deposit shall be credited

to the Purchaser at the time of the Closing (as hereinafter defined).

B. The remaining balance of Seven Hundred Ninety Thousand Dollars (\$790,000.00) shall be paid to Seller at Closing in immediately available funds (e.g., wire transfer), subject to adjustments and prorations.

4. **Execution / Calculation of Time / Time of the Essence.**

A. **Execution.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which together shall constitute one and the same instrument. This Agreement shall become binding when one or more counterparts shall bear the respective signatures of all of the parties designated as signatories herein. If this Agreement shall be executed in counterparts, then upon the subsequent written request of any signatory, all parties shall join in the signing of one complete original instrument. A facsimile copy of this Agreement evidencing any signatures shall be considered as an original for all purposes.

B. **Calculation of Time.** All references to days shall mean calendar days unless Business Days are specifically stated. Business Days shall mean Monday through Friday, and exclude legal holidays. If any time period ends on a Saturday, Sunday, or legal holiday, it shall instead be deemed to expire at the end of the next Business Day.

C. **Time of the Essence.** The Parties have been fully advised and agree that time is of the essence in this Agreement.

5. **Purchaser's Inspection Period.**

A. Upon the full execution of this Agreement, Purchaser shall have 60 days (herein referred to as "the **Inspection Period**") to inspect the Property. Seller shall provide Purchaser and its agents and consultants reasonable access to the Property, provided that in each such case Seller shall have the right to have a representative of Seller present during the course of each such entry. Purchaser shall have the right to make inquiries of governmental bodies, utility companies, and other third parties.

B. In the event that Purchaser determines, in its sole opinion and sole discretion, that the Property or this Agreement is unacceptable for any reason whatsoever, Purchaser (by and through its designee) shall give Seller written notice before the end of the Inspection Period that it intends to terminate the transaction contemplated by this Agreement, and this Agreement shall forthwith and thereupon be terminated, become null and void, and be of no further force and effect, at which time the Escrow Agent shall return the Earnest Money Deposit to the Purchaser. If Purchaser does not give such notice, the contingency shall have expired, and Purchaser shall proceed to Closing.

C. The Parties have been fully advised and agree that time is of the essence with respect to the obligations of the parties under the Inspection Period.

6. Survey. During the Inspection Period, Purchaser may obtain, at Purchaser's expense and discretion, a survey of the Property (the "**Survey**").

7. Evidence of Title. Within twenty (20) days of the effective date of this Agreement, Seller shall obtain, at Purchaser's expense, a commitment for an owner's title insurance policy, (the "**Title Commitment**"), agreeing to issue to Purchaser, upon recording of a Special Warranty Deed, a title insurance policy in the amount of the Purchase Price, insuring Purchaser's title to the Property. The Title Commitment shall include legible copies of all documents referenced therein. The Title Commitment shall provide that all "standard exceptions" (including exceptions for taxes (for years prior to the year of Closing)) and assessments not shown in the public records, claims of unrecorded easements, parties other than owner in possession, construction liens and matters disclosed on an accurate Survey, shall be deleted from the Policy when issued. Seller shall provide to the Closing Agent any affidavits, undertakings and other instruments required to delete said standard exceptions, and Purchaser shall provide such Survey with required certifications.

A. Objections to Title. If the Title Commitment contains exceptions to coverage, other than the standard exceptions, which adversely affect title to the Property and render title unmarketable and uninsurable, the Purchaser shall notify the Seller, in writing, of Purchaser's objections to such exceptions within twenty (20) days after the Title Commitment and copies of all underlying title search instruments and the Survey have been furnished to Purchaser.

B. Curing Title Objections. The Seller shall have thirty (30) days after receipt of such notice in which to either (i) cure such defects (the "**Title Curative Period**") and furnish to the Purchaser evidence that same have been cured or (ii) notifies Purchaser in writing that Seller has determined, in Seller's sole discretion, that it is not feasible on a commercially reasonable basis to cure one or more of Purchaser's objections. The Inspection Period and Closing Date shall be postponed and extended for the Title Curative Period. If the Title defects are cured within the Title Curative Period, the sale and purchase shall be closed within seven (7) days after written notice to Purchaser, but not earlier than the Closing Date. In the event that Seller is unable to cure such defects within the Title Curative Period, Seller may give notice of necessity to extend the Title Curative Period for an additional ninety (90) days. If Seller fails to cure such defects within the Title Curative Period (as extended, if applicable), or notifies Purchaser in writing that Seller has determined it is not feasible to cure the defect, Purchaser shall have the option to either (i) complete the purchase in accordance with the Agreement and accept title to the Property subject to such objections without any adjustment to the Purchase Price; or (ii) terminate this Agreement by written notice thereof to Seller within seven (7) days either after notice of Purchaser's failure to cure defect during the Title Curative Period (as extended, if applicable) or after Purchaser's notice to Seller that it is not feasible to cure the defect, whichever is applicable, whereupon this Agreement shall terminate and be of no further force or effect and the Earnest Money Deposit shall be returned to Purchaser.

C. Updates of Title. Purchaser may have the Title Commitment updated by endorsement ("**Update Endorsement**") not less than five (5) days before the Closing Date. If such Update Endorsement discloses any new requirement, defect, Encumbrance

or other adverse matter, then Purchaser shall notify Seller in writing specifying the new title defect and providing legible copies of said defect not later than five (5) days before the Closing Date and Seller shall have a period of thirty (30) days following the receipt of such notice from Purchaser to cure such new title defect and the Inspection Period and Closing Date shall be extended. If Seller fails to cure any such new title defect, Purchaser shall have the option, to be exercised in its sole discretion, to either: (i) complete the purchase in accordance with the Agreement and accept title to the Property subject to such objections without any adjustment to the Purchase Price; or (ii) terminate this Agreement by written notice thereof to Seller within seven (7) days after Purchaser's receipt of written notice of Seller's failure to cure Purchaser's objections within the Title Curative Period or Seller's determination that curing Purchaser's objections is not feasible, whereupon this Agreement shall terminate and be of no further force or effect and the Earnest Money Deposit shall be returned to the Purchaser, together with all earned interest thereon.

D. Time. The Parties have been fully advised and agree that time is of the essence with respect to the parties' obligations under this Section.

8. Closing Date and Procedure / Documents to be Provided.

A. Closing Date. Unless extended by other provisions of this contract or terminated during the Inspection Period, the Closing Date contemplated by this Agreement shall be within 30 days after expiration of the Inspection Period. Closing shall occur remotely, or such place as the parties may agree. The parties have been fully advised and agree that time is of the essence with respect to the Closing Date.

B. Closing Procedure.

1. Seller. At Closing, if not previously delivered to Purchaser, Seller shall execute and deliver to Purchaser:

- (i) A fully executed Special Warranty Deed in favor of Purchaser;
- (ii) An owner's title affidavit.
- (iii) Bills of Sale as to any personal property conveyed;
- (iv) Any other document reasonably required pursuant to the terms of this Agreement.

2. Purchaser. At Closing, Purchaser shall deliver to Seller the following:

- (i) The balance of the Purchase Price payable at the Closing, as adjusted for prorations and taxes and hold-backs, in the manner required under this Agreement;
- (ii) Instructions from Purchaser directing payment of the Earnest Money Deposit and the Purchase Price and all other amounts due at Closing, or thereafter in accordance with the provisions of this Agreement, to Seller or any other person as Seller shall designate;
- (iii) Right of First Refusal in favor of Seller at to the Property; and

(iv) Any other document reasonably required pursuant to the terms of this Agreement.

3. Seller and Purchaser. Seller and Purchaser shall, on the Closing Date, each execute, acknowledge (as appropriate) and deliver the following documents:

- (i) Any transfer tax returns required under any tax laws applicable to the transactions contemplated herein;
- (ii) The Closing Statement;
- (iii) Any other affidavit(s), document or instrument required to be delivered by Seller or Purchaser pursuant to the terms of this Agreement.

9. Costs. At the time of Closing, Purchaser shall pay to Seller the total Purchase Price for the Property, less prorations and adjustments in accordance with this Agreement. Taxes and governmental assessments for the Property shall be prorated through the day before Closing. Purchaser shall have the option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing. Taxes shall be prorated based on the current year's tax. If Closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on prior year's tax. A tax proration based on an estimate shall, at request of either party, be readjusted upon receipt of current year's tax bill. This covenant shall survive Closing.

A. Seller shall pay for the following items: (i) the recording fees for the Special Warranty Deed; (ii) Seller's legal fees and expenses; (iii) any broker's commission; and (iv) any costs of curing title defects.

B. Purchaser shall pay for the following items: (i) the documentary stamp tax due on the Special Warranty Deed; (ii) the cost of the premium due on the Owner's Title Insurance required under this Agreement, along with all related title and search costs related thereto; (iii) the cost of all inspections, tests and studies undertaken by Purchaser in connection with its investigation; (iv) Purchaser's legal fees and expenses; (v) any third party professional and consulting fees incurred at Purchaser's request; (vi) the cost of any Survey undertaken by Purchaser; (vii) cost of recording the Right of First Refusal.

10. Seller's Delivery of Property Data. Upon request, Seller shall provide Purchaser with copies of documentation related to the Property that Seller has in its care, custody or control (e.g., documentation pertaining to the physical condition, development and operation of the Property, and copies of all leases, licenses, and occupancy agreements in effect for use or possession of any portion of the Property).

11. Duties and Rights of Escrow / Closing Agent.

A. Purchaser and Seller authorize Escrow Agent or Closing Agent (collectively,

“Agent”), and Agent agrees by acceptance hereof, to hold all monies paid in escrow and to disburse the same in accordance with the terms and conditions of this Agreement. Agent undertakes to perform only such duties as are expressly set forth in this Agreement and no implied duties or obligations will be read into this Agreement against Agent.

B. Agent may act in reliance on any writing or instrument or signature that it, in good faith, believes to be genuine; may assume the validity and accuracy of any statement contained in such a writing or instrument; and may assume that any person purporting to give any writing, notice or instructions with respect to this Agreement has been duly authorized to do so.

C. In the event of doubt as to its duties or liabilities under the provisions of this Agreement, Agent shall have the right to withhold payment of the monies which are the subject of this escrow until the parties mutually agree to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties thereto, or Agent may deposit all monies then held pursuant to this Agreement, less the reasonable attorneys’ fees and costs for the interpleader or similar action, with the Clerk of the Circuit Court of Hardee County, and upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate. Purchaser and Seller agree that Agent shall not be liable to any party or person whomsoever for misdelivery to Purchaser or to Seller of money subject to this escrow, unless such misdelivery shall be due to a willful breach of Agent’s duties under this Agreement or gross negligence by Agent, and the parties will fully indemnify Agent from any and all expense, cost, claim, or charges it may incur, including its reasonable attorneys’ fees and costs, subject to the limitations of s. 768.28, Florida Statutes.

12. Default and Notice to Cure.

A. If Purchaser defaults in any of its material obligations to be performed on or prior to the Closing Date, including default in the payment of the Purchase Price, Seller shall have the right to receive disbursement of the Earnest Money Deposit if not previously delivered, and terminate this Agreement. Upon such delivery of the Earnest Money Deposit in accordance with the preceding sentence, this Agreement shall terminate and neither party hereto shall have any further obligations hereunder except for those that are expressly provided in this Agreement to survive the termination hereof.

B. If Seller defaults in any of its material obligations to be performed on or prior to the Closing Date, Purchaser shall have the right (i) to receive a return of the Earnest Money Deposit and terminate this Agreement, or (ii) to seek specific performance of Seller’s obligations hereunder (it being expressly acknowledged that the remedy of specific performance is an appropriate remedy in the event of a default by Seller under this Agreement). Upon such return and delivery of the Earnest Money Deposit in accordance with Clause (i) of the preceding sentence, if such remedy is elected by Purchaser, this Agreement shall terminate and neither party hereto shall have any further obligations hereunder except for those that are expressly provided in this Agreement to survive the termination hereof.

C. In connection with any litigation arising out of the enforcement or

interpretation of this Agreement, the prevailing party shall be entitled to recover from the other, all costs incurred, including reasonable attorneys' fees, including without limitation trial and appellate proceedings, subject to the limitations of Section 768.28, Florida Statutes.

D. The provisions of this Section 12 shall survive the termination hereof.

13. Condemnation. If, prior to the Closing Date, any part of the Property is taken by an entity other than Purchaser (other than a temporary taking), or if Seller shall receive an official notice from any governmental authority, having eminent domain power over the Property, of its intention to take by eminent domain proceeding any part of the Property (a "**Taking**"), then Purchaser shall have the option, exercisable within ten (10) days after receipt of notice of such Taking, to terminate this Agreement by delivering written notice thereof to Seller, whereupon Purchaser's deposit shall be returned and this Agreement shall be deemed cancelled and of no further force or effect, and neither party shall have any further rights or liabilities against or to the other except pursuant to the provisions of this Agreement, which are expressly provided to survive the termination hereof. If a Taking shall occur and Purchaser shall not have timely elected to terminate this Agreement, then Purchaser and Seller shall consummate this transaction in accordance with this Agreement, without any abatement of the Purchase Price or any liability or obligation on the part of Seller by reason of such Taking, provided, however, that Seller shall, on the Closing Date, (i) assign and remit to Purchaser, and Purchaser shall be entitled to receive and keep, the net proceeds of any award or other proceeds of such Taking which may have been collected by Seller as a result of such Taking less the reasonable expenses incurred by Seller in connection with such Taking, or (ii) if no award or other proceeds shall have been collected, deliver to Purchaser an assignment of Seller's right to any such award or other proceeds which may be payable to Seller as a result of such Taking and Purchaser shall reimburse Seller for the reasonable expenses incurred by Seller in connection with such Taking.

14. Notices. Any notices provided for in this Agreement shall be in writing to the address set forth below and shall be effective (a) upon receipt or refusal if delivered personally; (b) one (1) Business Day after deposit with a recognized overnight courier or (c) two (2) Business Days after deposit in the U.S. mail.

If to Seller:

Trussworks Realty Florida, LLC
1610 W. 10TH STREET
CALDWELL, TX 77836

with copy to:

STEVEN SOUTHWELL
501 W. MAIN STREET
WAUCHULA, FLORIDA, FL 33873
ssouthwell@realfloridalaw.com

and

Joseph N. Briers
jbriers@brucez.com

If to Closing or Escrow Agent:

J. Steven Southwell, PA
STEVEN SOUTHWELL
501 W. MAIN STREET
WAUCHULA, FLORIDA, FL 33873
ssouthwell@realfloridalaw.com

If to Purchaser:

Hardee County Industrial Development
Authority
107 East Main Street
Wauchula, Florida 33873
Telephone: 863-773-3030

with copy to:

Swaine, Harris & Wohl, P.A.
Attn: Shannon L. Nash
425 South Commerce Avenue
Sebring, Florida 33870
Telephone: 863-385-1549
Facsimile: 863-471-0008
shannon@heartlandlaw.com

Either party may change their address by written notice given to the other as hereinabove provided. Notwithstanding the foregoing, any notice sent to the last designated address of the party to whom a notice may be or is required to be delivered hereunder shall not be deemed ineffective if actual delivery cannot be made due to an unnoticed change of address of the party to whom the notice is directed or the failure or refusal of such party to accept delivery of the notice.

15. Covenants: Preclosing Rights and Obligations of Seller. From the Effective Date of this Agreement until the Closing Date, Seller shall: (i) not take any action which will adversely affect title to the Property; (ii) not enter into any lease, license or other agreement for occupancy of the Property, unless Purchaser has previously consented in writing; (iii) not enter into any service contracts which survive the Closing, unless Purchaser has previously consented in writing. The provisions of this Section 15 shall survive the Closing.

16. Warranties, Representations and Disclosures of Seller. Seller makes the following warranties, representations and disclosures to Purchaser, which representations and disclosures shall be true on the Effective Date and shall also be true at the time of Closing:

A. Authority. Seller is an industrial development authority created pursuant to Part III, Chapter 159, Florida Statutes, and a dependent special district authorized by

resolution of the Hardee County Board of County Commissioners, and is duly organized, validly existing, and in good standing under the laws of the State of Florida, and has all requisite power and authority to execute and deliver this Agreement.

B. Marketable Title. As of the Closing Date, Seller shall have the ability to deliver good, marketable and insurable title to the Property.

C. Condemnation. Seller has no knowledge of any pending or threatened condemnation or similar proceeding affecting the Property, nor does Seller have knowledge that any such action is presently contemplated.

D. Pending Litigation/Violations. Seller has no knowledge of any legal actions, suits, code enforcement, regulatory actions, or other legal or administrative proceedings, including bankruptcy proceedings, pending or threatened, against the Property or Seller, and Seller is not aware of any facts which might result in any action, suit or other proceeding against the Property or Seller that could result in a lien encumbering the Property or any part thereof.

E. Other Obligations and Assessments. Seller has no knowledge of any outstanding impact fees, obligations, assessments, fair share agreements or capital recovery obligations for sewer, water, drainage, roadway or other improvements which affect the Property by reason of any past or existing improvements on the Property.

F. Contracts/Leases. Seller has not entered into any existing, in force contracts for the sale of the Property other than this Agreement. Seller has received no notice of and has no knowledge of any rights of first refusal, right of first offer, or options to purchase any of the Property or any other rights or agreements that may delay or prevent this transaction. No person or entity other than Seller is entitled to possession of the Property except for lease or occupancy agreement(s) that have been provided to Purchaser. Other than as certified by estoppel certificate for a lease or occupancy agreement, Seller warrants that there is in effect no contract or agreement relating to occupancy, management, or operation of the Property that cannot be terminated on or prior to the Closing Date.

G. Mechanic's Liens. Seller has no knowledge of labor or materials of any kind furnished to or for the benefit of the Property for which payment in full has not been made or with respect to which a construction lien may be filed against the Property.

H. Other Agreements. There is no note, mortgage, security agreement, or other agreement affecting the Property, including leases, that requires the consent of any party as a result of the sale contemplated by this Agreement, and that there are no defaults existing in any such agreements affecting the Property.

It shall be a condition precedent to Purchaser's obligation to close hereunder that the representations and warranties of Seller set forth in this Agreement will be true in all material respects on the Closing Date. Should Purchaser determine prior to the Closing Date that any representation or warranty set forth herein is inaccurate in a material way, then Purchaser shall promptly provide written notice to Seller of such inaccuracy, and

provided that Seller does not otherwise elect or is unable to cure such inaccuracy, Purchaser shall have the option of either waiving any claim against Seller by virtue of such inaccuracy and proceeding to Closing without any adjustment to the Purchase Price, or Purchaser may terminate this Agreement, by written notice to Seller within ten (10) days following written notice from Seller that Seller cannot or will not cure any inaccuracy, whereupon this Agreement and all rights and obligations of the parties hereunder shall thereupon cease and be deemed null and void. In the event of such a termination by Purchaser pursuant to this section, the Earnest Money Deposit shall be immediately returned to Purchaser.

17. Warranties and Representations of Purchaser. Purchaser hereby makes the following warranties and representations to Seller, which warranties and representations shall be true on the Effective Date and shall also be true at the time of Closing.

A. Purchaser is duly organized, validly existing, and in good standing under the laws of the State of Florida, and has all requisite power and authority to execute and deliver this Agreement. Purchaser is the realty holding company for Trussworks, LLC, a Texas limited liability company.

B. The execution, delivery and performance of this Agreement and the consummation of the transaction contemplated herein by the Purchaser have been duly authorized and approved by all necessary action. This Agreement, when executed, will constitute the legal, valid and binding obligation of Purchaser, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

It shall be a condition precedent to Seller's obligation to close hereunder that the representations and warranties of Purchaser set forth in this Agreement will be true in all material respects on the Closing Date. Should Seller determine prior to the Closing Date that any representation or warranty set forth herein is inaccurate in a material way, then Seller shall promptly provide written notice to Purchaser of such inaccuracy, and provided that Purchaser does not otherwise elect to cure such inaccuracy, Seller shall have the option of either waiving any claim against Purchaser by virtue of such inaccuracy and proceeding to Closing without any adjustment to the Purchase Price, or Seller may terminate this Agreement, by written notice to Purchaser within ten (10) days following written notice from Purchaser that Purchaser cannot or will not cure any inaccuracy, whereupon this Agreement and all rights and obligations of the parties hereunder shall thereupon cease and be deemed null and void and Purchaser shall be deemed in default.

18. Purchaser's Conditions Precedent. The following are conditions precedent to Purchaser's obligations to close this transaction:

A. Marketable Title. Seller's delivery of good, marketable and insurable fee simple title to the Property.

B. Document Delivery. Seller shall have executed and delivered all of the

documents required of Seller under this Agreement to Purchaser, including but not limited to an acceptable Special Warranty Deed, sufficient and acceptable to the Closing Agent to address the elimination of standard exceptions for "gap" coverage, construction liens and possession.

C. Performance of Covenants. Seller shall have performed all of its material covenants, agreements and obligations under this Agreement.

D. Truth of Representations and Warranties. All of Seller's representations and warranties set forth in this Agreement shall be true and correct in all material respects though first made as of the date of the Closing.

E. Removal of Personal Property. Seller shall remove all personal property, unless otherwise set forth herein, from the Property.

Purchaser may waive any or all of the preceding conditions precedent. With respect to those conditions precedent of which require the cooperation or subsequent action of Seller, Seller shall undertake such cooperation or action in good faith. If, notwithstanding the parties' commercially reasonable diligent effort, all of the following conditions precedent are not satisfied on or before the Closing Date, Purchaser shall have the right and option to either (i) waive any such unsatisfied condition precedent and close this Agreement in accordance with its terms without any adjustment to the Purchase Price, or (ii) terminate this Agreement on such Closing Date. If Purchaser terminates this Agreement because of the failure to satisfy or waive any such condition precedent all rights and obligations of the parties hereunder to each other shall end and this Agreement shall be of no further force or effect. In the event of such a termination, the Earnest Money Deposit shall be returned to Purchaser.

19. Seller's Conditions Precedent. The following are conditions precedent to Seller's obligation to close this Transaction:

A. Delivery of Documents. Purchaser shall have executed and delivered to Seller all of the documents required of Purchaser under this Agreement.

B. Performance of Covenants. Purchaser shall have performed all of its material covenants, agreements and obligations under this Agreement.

C. Payment of Purchase Price. Purchaser shall have delivered to Seller the balance of the Purchase Price and the Escrow Agent shall have delivered to Seller the Earnest Money Deposit.

D. Truth of Representations and Warranties. All of Purchaser's representations and warranties set forth in Section 17 of this Agreement shall be true and correct in all material respects.

E. Right of First Refusal. Purchaser shall have executed and delivered to Seller a recordable Right of First Refusal in the form attached hereto as Exhibit "B" whereby Purchaser grants to Seller an exclusive and absolute right of first refusal to

purchase or lease all or a portion of the Property.

F. Registration of Affiliate. Trussworks, LLC, a Texas limited liability company, shall be registered with the Florida Department of State as an entity authorized to do business in the State of Florida.

Seller may waive any or all of the preceding conditions precedent by execution of a written waiver. With respect to those conditions precedent of which require the cooperation or subsequent action of Purchaser, Purchaser shall undertake such cooperation or action in good faith. If, notwithstanding the parties' commercially reasonable diligent effort, all of the following conditions precedent are not satisfied on or before the Closing Date, Seller shall have the right and option to either (i) waive any such unsatisfied condition precedent and close this Agreement in accordance with its terms without any adjustment to the Purchase Price, or (ii) terminate this Agreement on such Closing Date. If Seller terminates this Agreement because of the failure to satisfy or waive any such condition precedent all rights and obligations of the parties hereunder to each other shall end and this Agreement shall be of no further force or effect. In the event of such a termination pursuant to this section, the Earnest Money Deposit shall be retained by Seller (or if not previously disbursed, the Earnest Money Deposit shall be immediately disbursed to Seller).

20. Miscellaneous.

A. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, representatives, successors and assigns; and no third party shall have any rights, privileges or other beneficial interest in or under this Agreement. The parties may assign their rights under this agreement but neither party may assign or transfer its obligations under this Agreement without prior written consent of the other. Any assignment without such written consent shall be void and shall not act to release the assigning party from its obligations hereunder. As used herein, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

B. Broker's Commissions. Seller and Purchaser warrant and represent to each other that no broker or other person is expecting or due a fee or commission related to the transaction herein contemplated. Each party shall indemnify the other party against any claim of any broker claiming by, through, or under the indemnifying party. This indemnification clause is not intended nor shall it be construed to waive the Seller's rights and immunities or exceed the limitations provided by s. 768.28, Florida Statutes. This warranty and representation shall survive delivery of the Deed and Closing of this transaction.

C. Entire Agreement. This Agreement, including the Exhibit attached hereto, contains the entire Agreement between Seller and Purchaser and all other representations, negotiations and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by instrument, in writing, executed by all parties

hereto.

D. 1031 Exchange. If Seller wishes to enter into a IRC Section 1031 like-kind exchange with respect to the Property ("Exchange"), the Purchaser agrees to cooperate, including the execution of documents; provided (1) the Purchaser shall incur no liability or expense related to the Exchange and (2) the Closing shall not be contingent upon, nor extended or delayed by, such Exchange.

E. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

F. Mold. Mold is naturally occurring and may cause health risks or damage to property. This Agreement is not contingent upon testing for the existence of toxic mold unless specifically provided.

G. Risk of Loss. Loss or damage to all improvements shall be at the risk of Seller until Closing. In the event of substantial damage to the Property prior to the Closing Date or any condemnation of the Property, the Purchaser may either close this transaction and accept the Seller's interest in the insurance or condemnation proceeds or terminate this Agreement and be entitled to the return of the deposit monies paid by the Purchaser together with all interest earned thereon. For purposes of this Agreement, substantial damage shall mean damage to at least 10% of the Property.

H. Waiver. No waiver hereunder of any condition or breach shall be deemed to be a continuing waiver or a waiver of any subsequent breach.

I. Severability. In case anyone or more provisions contained in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

J. Florida Contract. This Agreement shall be deemed a Florida contract and construed according to the laws of such state, regardless whether this Agreement is being executed by any of the parties hereto in other states or otherwise. The proper and exclusive venue for any action concerning this Agreement shall be the Circuit Court in and for Hardee County, Florida. Except as may be specifically set forth herein, Seller does not waive sovereign immunity. Seller's liability under and relating to this Agreement, if any, is subject to and limited by Section 768.28, Florida Statutes.

K. Time for Acceptance. Any offer or counter-offer made hereunder must be accepted via counter-signature within fifteen (15) days of the date signed by the first party, unless the offer or counter-offer is sooner rescinded. Any offer or counter-offer that is not timely accepted shall be deemed expired and revoked. Purchaser acknowledges that Seller is dependent special district operating under applicable laws of the State of Florida,

including Chapter 159, Florida Statutes, and further acknowledges that official acts by Seller are authorized by a governing body. No contract or agreement, whether in writing or verbal, is binding upon Seller until reviewed and accepted by the Seller's governing body and executed by all parties.

Seller:

**TRUSSWORKS REALTY FLORIDA,
LLC**

By: 
Mike Bellows, Manager

Date of execution: 9/17/23, 2023

Witness #1 as to Seller:


Print Name: Amanda Boenigk

Witness #2 as to Seller:


Print Name: James Gibson

Purchaser:

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: _____
Lee Mikell, Chair

Date of execution: _____, 2023

ATTEST:

Name: _____

Exhibit A

DEPICTIONS / DESCRIPTION OF REAL PROPERTY

205 State Road 62, Wauchula, Hardee County, Florida (*one parcel*)
0 State Road 62, Wauchula, Hardee County, Florida (*three parcels*)

Parcel IDs: 20-33-25-0000-09040-0000
20-33-25-0000-09040-0000
21-33-25-0000-02530-0000
21-33-25-0000-02520-0000

Depiction:



*[Exhibit A - Page 1 of 2]
[continued on next page]*

Legal Description:

BEGIN AT NE CORNER OF E 1/2 OF NE 1/4 OF SE 1/4 OF SECTION 20, TOWNSHIP 33 SOUTH, RANGE 25 EAST FOR THE POINT OF BEGINNING. THENCE RUN WEST 331.88 FEET; THENCE SOUTH 210 FEET; THENCE EAST 331.88 FEET; THENCE NORTH 210 FEET TO POINT OF BEGINNING, HARDEE COUNTY, FLORIDA. LESS STATE ROAD RIGHT OF WAY.

AND

BEGIN AT NW CORNER OF NW 1/4 OF SW 1/4 OF SECTION 21, TOWNSHIP 33 SOUTH, RANGE 25 EAST FOR POINT OF BEGINNING; THENCE RUN EAST 198.12 FEET; THENCE SOUTH 210 FEET; THENCE WEST 198.12 FEET; THENCE NORTH 210 FEET TO POINT OF BEGINNING, HARDEE COUNTY, FLORIDA. LESS STATE ROAD RIGHT OF WAY.

AND

E 1/2 OF E 1/2 OF NE 1/4 OF SE 1/4, LESS THE WEST 10 FEET THEREOF OF SECTION 20, LESS: BEGIN AT NE CORNER OF E 1/2 OF NE 1/4 OF SE 1/4 OF SAID SECTION 20 FOR P.O.B; THENCE RUN WEST 331.88 FEET; THENCE SOUTH 210 FEET; THENCE EAST 331.88 FEET; THENCE NORTH 210 FEET TO P.O.B. LESS STATE ROAD RIGHT OF WAY IN TOWNSHIP 33 SOUTH, RANGE 25 EAST,

AND

BEGIN AT NW CORNER OF NW 1/4 OF SW 1/4 OF SECTION 21, AND RUN EAST 198.12 FEET TO P.O.B.; THENCE SOUTH 89°56'30" EAST 617.18 FEET; THENCE SOUTH 1331.01 FEET TO SOUTH BOUNDARY LINE OF SAID NW1/4 OF SW 1/4; THENCE NORTH 89°51'42" WEST 815.36 FEET TO WEST LINE OF SAID NW 1/4 OF SW 1/4, BEING THE SW CORNER OF NW 1/4 OF SW 1/4; THENCE NORTH 1119.24 FEET; THENCE EAST 198.12 FEET; THENCE NORTH 210 FEET TO P.O.B. ALL LYING AND BEING IN TOWNSHIP 33 SOUTH, RANGE 25 EAST, HARDEE COUNTY, FLORIDA.

LESS: THAT PORTION OF THE SOUTHWEST 1/4 OF SECTION 21, TOWNSHIP 33 SOUTH, RANGE 25 EAST, HARDEE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF SAID SOUTHWEST 1/4; THENCE NORTH 00°11'12" WEST, 7.40 FEET TO THE SURVEY LINE OF STATE ROAD 62; THENCE ALONG SURVEY LINE NORTH 89°48'29" EAST, 544.95 FEET; THENCE SOUTH 00°11'31" EAST 39.00 FEET FOR A POINT OF BEGINNING; THENCE NORTH 89°48'29" EAST, 272.83 FEET; THENCE SOUTH 00°05'58" EAST, 11.00 FEET; THENCE SOUTH 89°48'29" WEST, 272.82 FEET; THENCE NORTH 00°11'31" WEST 11.00 FEET TO THE POINT OF BEGINNING.

AND LESS THAT PORTION OF THE SOUTHWEST 1/2 OF SECTION 21, TOWNSHIP 33 SOUTH, RANGE 25 EAST, HARDEE COUNTY, FLORIDA BEING DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SOUTHWEST 1/4; THENCE NORTH 00°11'12" WEST, 583.71 FEET ALONG THE WEST BOUNDARY OF SAID SECTION 21, THENCE NORTH 89°54'06" EAST, 816.70 FEET; THENCE SOUTH 00°05'58" East, 583.71 FEET TO THE SOUTH LINE OF SAID NORTHWEST 1/4 OF SAID SOUTHWEST 1/4; THENCE SOUTH 89°54'06" WEST, 815.81 FEET ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING. LESS STATE ROAD RIGHT OF WAY.

[Exhibit A - Page 2 of 2]

Exhibit “B”

Right of First Refusal

[begins on following page]

PREPARED BY AND RETURN TO:

Shannon L. Nash
Swaine, Harris & Wohl, P.A.
425 South Commerce Avenue
Sebring, FL 33870-3702
Phone: 863.385.1549

RIGHT OF FIRST REFUSAL AGREEMENT

This Right of First Refusal Agreement (this “Agreement”) is made and entered into as of the Effective Date, by and between **TRUSSWORKS REALTY FLORIDA, LLC**, a Florida limited liability company (“Grantor”) and the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a body politic and corporate of the State of Florida (“Grantee”). The “Effective Date” shall be the date on which this Agreement is executed by the last to do so of Grantor and Grantee.

RECITALS

A. Grantor is the owner of that certain real property located in Hardee County, Florida and more particularly described in Exhibit “A” attached hereto and incorporated herein (the “Property”), having purchased such real property from Grantee.

B. As used herein, the term “Property” shall also refer to any other buildings or improvements located on the Property from time to time, as well as any interest in Grantor, as the context may require, and shall also mean the entire Property or any portion thereof, as may be applicable.

C. Grantor has agreed to grant to Grantee a right of first refusal as to any bona fide offer for the purchase of the Property on the terms and conditions set forth in this Agreement.

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

1. **Incorporation of Recitals.** The parties represent and warrant that the Recitals to this Agreement are true and correct and incorporate them within this Agreement.

2. **Right of First Refusal for Sale or Lease.** Grantor hereby grants to Grantee a right of first refusal (“ROFR”) for the purchase or lease of the Property (as may be applicable from time to time), which ROFR shall be exclusive, continuous, unlimited, and absolute, and may be exercised only as set forth in this Agreement. The ROFR shall be exercisable as to the proposed sale or lease of all or any portion of the Property (as applicable). However, the ROFR shall not apply to any condemnation by eminent domain or sale in lieu thereof.

2.1. **Procedure.** If, at any time no later than five (5) years from the date of this Agreement, Grantor receives from a party other than Grantee or an Affiliate of Grantor as herein defined (a “Third Party”) an offer to purchase or lease the Property which Grantor intends to accept, or Grantor makes to a Third Party a proposal to sell or lease the Property, or Grantor responds to a Third Party’s request

for proposal to sell or lease the Property (whether the foregoing offers and proposals being in the form of a letter of intent, proposed purchase contract or lease agreement, or otherwise) (collectively, an “Outside Offer”), then Grantor shall give written notice of the Outside Offer (the “ROFR Notice”) to Grantee, together with a copy of the Outside Offer and all other terms relating thereto and Grantee shall have the prior option to purchase or lease (as applicable) the Property upon the same terms and conditions as set forth in the Outside Offer (sale or lease, as applicable) in Hardee County, Florida. If, following the delivery of a ROFR Notice, the terms of the associated Outside Offer are modified between Grantor and the Third Party, then Grantor shall provide Grantee with a new ROFR Notice, and all applicable deadlines shall relate to the date of the delivery of this new ROFR Notice. For the purposes of this Agreement, an “Affiliate of Grantor” shall be defined as any entity (i) owning, owned by, controlling or controlled by Grantor, the member(s) of Grantor or the officers, managers or directors of Grantor, and (ii) that constructs trusses.

Grantee may exercise the ROFR by delivering to Grantor written notice of Grantee’s election to exercise the ROFR within forty-five (45) days following Grantee’s receipt of the ROFR Notice. If Grantee elects not to exercise the ROFR within this forty-five (45) day period, then Grantee shall be deemed to have waived the ROFR as to the specific Outside Offer at a purchase price no less than \$25,000 less than disclosed in the Outside Offer (but not as to subsequent offers or proposals, as provided in Section 2.2 below) and Grantor shall be free to sell or lease (as applicable) the Property to the specific Third Party on the terms of the Outside Offer; provided, that, if Grantor and the Third Party fail to consummate the transaction under the Outside Offer, Grantee’s ROFR shall be reinstated and Grantee shall once again have the right to exercise the ROFR as to such Outside Offer in accordance with the terms set forth herein.

If Grantee does timely exercise the ROFR, Grantor and Grantee shall enter into a purchase contract or lease agreement (as applicable) for the applicable Property under the same terms and conditions set forth in the Outside Offer. Notwithstanding the foregoing, if the consideration from the Third Party under the Outside Offer constitutes an exchange of property or other form of consideration other than cash and Grantor intends to accept the Outside Offer based on such consideration, then the purchase price (if a sale transaction) or rent (if a lease transaction) applicable to Grantee shall be the fair market value or fair market rental value (as applicable) of the Property or applicable portion thereof, determined in accordance with the proceeds set forth in **Section 3** below. Any lease to a Third Party cannot contain an option for tenant to purchase.

2.2. **Continuing Right.**

2.2.1. If Grantee elects not to exercise the ROFR for an Outside Offer involving a sale to a Third Party, and Grantor consummates the sale under the terms of the Outside Offer, then this Agreement shall terminate as to the Property so transferred and Grantee shall provide the appropriate documentation to release such Property from this Agreement pursuant to Section 3. However, if the sale is not

consummated on the terms of the Outside Offer, the ROFR shall survive and remain in full force and effect as to any other or future Outside Offer. Grantor shall deliver copies of closing statements and deed or lease for closed transaction.

2.2.2. The ROFR with respect to any lease transaction shall be continuous and shall not be terminated unless and until there is a completed sale of the Property to a Third Party and Grantee elected not to exercise the ROFR for the Outside Offer for that sale, as provided in **Section 2.2.1** above. Accordingly, if Grantee elects not to exercise the ROFR for an Outside Offer involving a lease to a Third Party and Grantor consummates the lease transaction under the terms of the Outside Offer, the ROFR shall survive and remain in full force and effect as to any future Outside Offer, the ROFR shall survive and remain in full force and effect as to any future Outside Offer for sale or lease (including any extension, renewal, or expansion of that lease unless pursuant to the express terms of the original Outside Offer). Further, if the lease contemplated under the Outside Offer is not consummated on the terms of the Outside Offer, the ROFR shall similarly survive and remain in full force and effect as to any other Outside Offer for sale or lease.

2.2.3. Should less than 100% of the Property sell or lease to a Third Party after Grantee refuses to purchase or lease the Property, the ROFR will continue on the remaining Property.

3. **Determining Fair Market Value.** As used herein, “fair market value” shall mean fair market value or fair market rental value, as may be relevant to the subject transaction. If Grantee exercises the ROFR, the following process shall govern the determination of the fair market value of the Property, if applicable under this Agreement. Grantee shall hire, at Grantee’s expense, a Florida Certified General Property Appraiser with experience appraising income or market value basis for appraisal properties in Hardee County, Florida, of similar size and use as the property being leased or sold, to prepare an appraisal (“**Grantee’s Appraisal**”) of the fair market value of the Property, a copy of which shall be provided to Grantor within sixty (60) days following Grantee’s election to exercise ROFR. Unless Grantor notifies Grantee within thirty (30) days after Grantor’s receipt of Grantee’s Appraisal that Grantor disagrees with Grantee’s Appraisal, then the fair market value set forth in the Grantee’s Appraisal shall be the purchase price or rent (as applicable) for the Property. If Grantor does timely notify Grantee that it disagrees with Grantee’s Appraisal, then Grantor shall obtain an additional appraisal, at Grantor’s expense, by an appraiser of the same qualifications as set forth above to prepare an appraisal (“**Grantor’s Appraisal**”) of the fair market value of the Property based on the same criteria as Grantee’s Appraisal, and the purchase price or rent (as applicable) shall be the average of the fair market value reflected in Grantee’s Appraisal and Grantor’s Appraisal (the “**Average**”). Notwithstanding the foregoing, if the variance between the Average and Grantee’s Appraisal and Grantor’s Appraisal is greater than or equal to 10%, Grantor and Grantee shall mutually and reasonably select a third appraiser qualifying under the criteria set forth above, who shall only choose between either the Grantor’s Appraisal or Grantee’s Appraisal as the closest reflection of the fair market value of the Property, and such selection shall be final and binding upon Grantor and Grantee as the purchase price or rent (as applicable) for the Property. Grantor and Grantee shall share equally the cost of this third appraiser. Any fees of any counsel engaged directly by Grantor or Grantee, however, shall be borne by the party retaining the counsel.

4. **Documentation from Grantee.** In the event that Grantee elects not to exercise its ROFR as to any transaction (whether be affirmative election or failure to timely respond), at the closing of the applicable transaction, Grantee will provide written documentation upon request of Grantor in recordable form (the “Consent”) under which Grantee acknowledges it has waived its ROFR as to the particular transaction and, if applicable pursuant to **Section 2.2**, terminates this Agreement as to such Property upon the consummation of the transaction. The Consent shall be held in escrow to be released and recorded upon the closing of such transaction (with prior notice to Grantee) and, if such transaction shall fail to close, the Consent shall be returned to Grantee.

5. **Representation and Warranties of Grantor.** Grantor represents and warrants that no other person, firm, or entity has any rights to acquire the Property. There are no leases, agreements, other commitments or tenancies which pertain or are applicable to the Property.

6. **Miscellaneous Provisions.**

6.1. **Notices.** Any notice given by one party to the other in connection with this Agreement shall be in writing and shall be sent either by (a) registered mail, return receipt requested, with postage and registration fees prepaid, in which case such notice shall be deemed to have been received on the date of receipt as shown on the return receipt, or (b) via electronic mail, in which case such notice shall be deemed to have been received on the sender’s receipt of a delivery confirmation of such electronic mail. Notices shall be addressed as follows:

If to Grantor:

Trussworks Realty Florida, LLC
1610 W. 10TH STREET
CALDWELL, TX 77836

with copy to:

Steven Southwell
501 W. Main Street
Wauchula, Florida 33873
ssouthwell@realfloridalaw.com

and

Joseph N. Briers
jbriers@brucez.com

If to Grantee:

Hardee Co. Industrial Development Authority
107 East Main Street
Wauchula, Florida 33873
Telephone: 863-773-3030

with copy to:

Swaine, Harris & Wohl, P.A.
Attn: Shannon L. Nash
425 South Commerce Avenue
Sebring, Florida 33870
Telephone: 863-385-1549
Facsimile: 863-471-0008
shannon@heartlandlaw.com

6.2 **Entire Agreement; No Third-Party Beneficiaries.** This Agreement, including the exhibits attached to this Agreement, contains the entire agreement between the parties and may not be changed except by written instrument, dated after the Effective Date, and signed by the party against whom the enforcement of such change is sought. Each provision in

this Agreement by one party is solely for the benefit of the other party and its successors and is not intended for third parties.

6.3 **Time of the Essence.** Time is of the essence in the performance of all obligations under this Agreement.

6.4 **Binding Effect.** All of the terms and provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties to this Agreement and their respective heirs, successors, assigns, and legal representatives. This Agreement shall burden and run with title to the Property.

6.5 **Construction.** The parties agree and acknowledge that they each, together with their respective legal counsel, have contributed substantially to the preparation of this Agreement, and as such, this Agreement shall not be interpreted more favorably against one party than the other solely upon the basis of which party actually drafted this Agreement.

6.6 **Attorneys' Fees.** In any suit, action, or other proceeding including arbitration or bankruptcy, arising out of or in any manner relating to this Agreement, including: (i) the enforcement or interpretation of any party's rights or obligations under this Agreement (whether in contract or tort, or both), or (ii) the declaration of any rights or obligations under this Agreement, the prevailing party, as determined by the court or arbitrator, shall be entitled to recover from the losing party reasonable attorneys' fees and court costs, notwithstanding any limitations on liability or remedies otherwise set forth in this Agreement.

6.7 **Further Assurances.** Each of the parties to this Agreement, without further consideration, shall execute and deliver such other documents, and take such other action, as may be reasonably necessary to consummate the purposes or subject matter of this Agreement more effectively.

6.8 **Applicable Law; Venue.** The existence, validity, constructions, and operational effect of this Agreement, and all of its covenants, agreements, terms and conditions, shall be determined in accordance with the laws of the State of Florida. The parties irrevocably consent that any legal action or proceeding arising out of or in any way connected with this Agreement will be instituted by or brought in any court (federal or state) located in or having jurisdiction in Hardee County, Florida, and irrevocably submit to the jurisdiction of such court in any such legal action or proceeding.

6.9 **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall remain in full force, if the essential provisions of this Agreement for each party remain valid, binding, and enforceable.

6.10 **Counterparts.** This Agreement may be executed in several counterparts and all such executed counterparts shall constitute one agreement, binding on all of the parties to this Agreement notwithstanding that all of the parties to this Agreement are not signatories to the original or to the same counterpart.

6.11 **Amendments.** This Agreement may not be amended except by a further agreement in writing duly executed by each of the parties to this Agreement.

6.12 **JURY WAIVER.** GRANTOR AND GRANTEE KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM INVOLVING ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

Two Witnesses as to Grantor:

TRUSSWORKS REALTY FLORIDA, LLC, a Florida limited liability company

By: _____
Mike Bellows, Manager

Printed Name: _____

Printed Name: _____

STATE OF _____
COUNTY OF _____

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this _____ day of _____, 2023 by means of physical presence or online notarization, by Mike Bellows, as Authorized Representative and Manager of Trussworks Realty Florida, LLC, who [] is personally known to me or [] who produced _____ as identification.

Notary Public

(Seal)

Two Witnesses as to Grantee:

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: _____
Lee Mikell, Chair

Printed Name: _____

Printed Name: _____

ATTEST: _____

**STATE OF FLORIDA
COUNTY OF HARDEE**

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this ____ day of _____, 2023 by means of physical presence or online notarization, by Lee Mikell, Chair of the Hardee County Industrial Development Authority, who [] is personally known to me or [] who produced _____ as identification.

Notary Public

(Seal)

[-END-]

RESOLUTION NO. 2023-07

A RESOLUTION OF THE HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY APPROVING AND AUTHORIZING THE EXECUTION OF A SALE/PURCHASE CONTRACT FOR THE SALE OF REAL PROPERTY LOCATED AT 205 STATE ROAD 62 AND THREE PARCELS AT 0 STATE ROAD 62, WAUCHULA, HARDEE COUNTY, FLORIDA; AUTHORIZING THE CHAIR OR VICE-CHAIR TO SIGN ALL DOCUMENTS NECESSARY FOR CLOSING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Hardee County Industrial Development Authority (“IDA”) desires to convey to Trussworks Realty Florida, LLC, a Florida limited liability company (the “Buyer”), and Buyer desires to purchase from IDA, certain real property commonly known as 205 State Road 62 and three parcels at 0 State Road 62, Wauchula, Hardee County, Florida, (the “Property”) which Property is more specifically depicted or described in the sale/purchase contract attached hereto as Exhibit “A” (the “Contract”);

WHEREAS, the Buyer is an affiliate of Trussworks, LLC, a family-owned company based in Texas that designs and builds wood trusses for the construction industry;

WHEREAS, Trussworks, LLC has been in business for 16 years and employs 250 people and now desires to expand its operations to the State of Florida;

WHEREAS, the Buyer expects the Property will be used for the purpose of manufacturing wood floor and roof trusses and the business should employ approximately 30 people in Hardee County over the next five years;

WHEREAS, for a period of five years after closing, the IDA will maintain a right of first refusal to repurchase all or a portion of the Property pursuant to the terms set forth in Exhibit “B” of the Contract;

WHEREAS, conveyance of the Property by the IDA to the Buyer will foster economic development in Hardee County by creating jobs in the IDA’s targeted industry of manufacturing. The creation of said jobs will have a positive economic output resulting in an increased tax base for Hardee County and opportunities for Hardee County’s workforce; and

WHEREAS, the IDA desires to authorize the execution and delivery of the Contract and confirm the authority of its signatory for purposes of the closing as relates to the Property.

NOW, THEREFORE, BE IT RESOLVED BY the Board of the Hardee County Industrial Development Authority that:

1. The above recitals are true and correct.
2. The sale of the Property to Buyer will serve the public purpose of advancing the economic prosperity and general welfare of Hardee County and its residents.
3. The execution by the Chair or Vice-Chair of the Contract, as well as the delivery of the Contract following its execution, is hereby authorized.
4. The Chair, Lee Mikell, or Vice Chair, Joseph B. Cherry, of the Hardee County Industrial Development Authority are each individually hereby authorized to sign documents necessary to effectuate the IDA's responsibilities pursuant to and under the Contract, including specific authorization to sign all documents and execute the special warranty deed necessary to effectuate the Closing of the sale of the Property pursuant to the terms of the Contract.
5. This resolution shall take effect immediately upon its passage.

APPROVED AND ADOPTED this 14th day of September, 2023 by the Board of the Hardee County Industrial Development Authority.

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: _____
Lee Mikell, its Chair

ATTEST:
By: _____
Name: _____

Exhibit A

Sale/Purchase Contract for
205 State Road 62 & three parcels at 0 State Road 62
Wauchula, Hardee County, Florida

[Contract begins on following page]

B SEE SOUND

Pro Audio for Any Event

P.O. Box 1757 Wauchula Fl. 33873 - bseesound.pro@gmail.com - 863-781-5597

QUOTE/INVOICE # Q-2203

Hardee County BOCC

Board Room Sound System Upgrade

| | |
|---|-----------|
| 1.. Midas DL16 digital stage box..... | \$950.00 |
| 1.. Midas M32C 40ch digital mixer..... | \$899.00 |
| 1.. ProCo 10' etherCON cable..... | \$85.00 |
| 4.. QSC SPC177866 monitor speakers..... | \$700.00 |
| 3.. JBL CSMA180 80w amp | \$1590.00 |
| 2.. JBL Control29AVW main speakers | \$950.00 |
| 2.. JBL U brackets | \$196.00 |
| 1.. Crown XLS DC2 amp | \$660.00 |
| 1.. 300' 14g speaker wire | \$250.00 |
| 1.. ART PS811 power sequencer | \$250.00 |
| 1.. 6 space equipment rack | \$325.00 |
| 16.. 3' XLR cables | \$100.00 |
| 3.. XLR to 3pin Euro block adapters | \$15.00 |
| 6.. 6' XLR cables | \$70.00 |
| 1.. 13' flexible gooseneck | \$20.00 |
| 1.. mic adapter flange mount | \$15.00 |
| 1.. 25' cat5e cable | \$20.00 |
| 1.. NetGear dual band WiFi router | \$75.00 |
| 1.. Furman M8x2 Power conditioner/surge protector | \$100.00 |
| 1.. iPad 10.2 64g | \$330.00 |
| 1.. Apple 2yr AppleCare | \$69.00 |

| | |
|--|-------------------|
| 1.. Miscellaneous hardware package | \$150.00 |
| Shipping | \$195.00 |
| Design, Installation, System tuning, and Basic training..... | <u>\$3675.00</u> |
| | |
| Total price for sound system upgrade..... | \$11689.00 |

A 80% mobilization fee is required and the 20% balance is due at completion.

This includes 3 service calls within a 6 month period for additional training or tuning (if needed).

PREPARED BY: Christopher G. King, Counsel, Duke Energy
 Mail To: Duke Energy Carolinas, LLC
 550 South Tryon Street, DEC 22A
 Charlotte, North Carolina 28202

Site: 116134
 Land Unit: 1737819
 Project No.: 116134-464987

STATE OF FLORIDA

**MEMORANDUM OF SUBLEASE
 (AS AMENDED)**

COUNTY OF HARDEE

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the rents and covenants set forth in a certain Land Sublease Agreement dated December 3, 2019, as amended by that First Amendment to Land Sublease Agreement dated December 18 2020 and Second Amendment to Land Sublease Agreement dated July 19, 2021 and Third Amendment to Land Sublease Agreement dated _____, 2023 (collectively, the “Sublease”) both by and between **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a dependent special district of Hardee County Florida, created and operating pursuant to the authority of Chapter 159, Florida Statutes, political subdivision of the State of Florida (“Sub-Landlord”), and **DUKE ENERGY FLORIDA, LLC**, a Florida limited liability company, as successor to Hardee Dydo Solar LLC (“Subtenant”).

Sub-Landlord has subleased to Subtenant that property located in Hardee County, Florida, more particularly described as follows:

Those certain real properties identified on **Exhibit A**, attached hereto and incorporated herein by reference (the “Premises”).

The Sublease took effect on December 3, 2019 (the “Effective Date”) and continues through June 21, 2051 plus four additional optional Renewal Terms of five years each.

The provisions set forth in the Sublease are hereby incorporated in this Memorandum as though stated herein.

[Signatures Begin on Following Page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum of Sublease by authority duly given, as of the day and year first above written. The signatures listed below do hereby confirm the substance and content of the Sublease between Hardee County Industrial Development Authority and Duke Energy Florida, LLC as successor to Hardee Dydo Solar LLC, dated December 3, 2019, as amended on December 18, 2020, June 19, 2021, and _____, 2023.

SUBLANDLORD:

HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

a political subdivision of the State of Florida

Witnesses:

Name: _____

Name: _____

By: _____

Name: _____

Title: _____

**STATE OF FLORIDA
COUNTY OF HARDEE**

The foregoing instrument was acknowledged before me this ____ day _____, 2023 by _____, as _____ of Hardee County Industrial Development Authority, in the capacity stated. He/she is personally known to me or has produced _____ as identification.

(Affix Seal)

Print Name: _____

My Commission Expires: _____

[Signatures Continue on Following Page]

IN WITNESS WHEREOF the parties hereto have duly executed this Memorandum of Sublease by authority duly given, as of the day and year first above written. The signatures listed below do hereby confirm the substance and content of the Sublease between Hardee County Industrial Development Authority and Duke Energy Florida, LLC as successor to Hardee Dydo Solar LLC, dated December 3, 2019, as amended on December 18, 2020, June 19, 2021, and August 28, 2023.

SUBTENANT:

DUKE ENERGY FLORIDA, LLC
a Florida limited liability company

Witnesses:

Andrew Rogers III

Name: Andrew Rogers III

Marshall Smith

Name: Marshall Smith

By: Andrew T. Hill

Name: ANDREW T. HILL

Title: DIRECTOR, R.E. STRATEGY + TRANSACTIONS

North Carolina

STATE OF ~~FLORIDA~~

COUNTY OF Mecklenburg

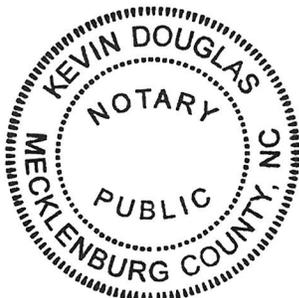
The foregoing instrument was acknowledged before me this 28th day August, 2023 by Andrew T Hill (Name of Officer), as Dir, R.E. Strategy + Transactions (Title of Officer) of **DUKE ENERGY FLORIDA, LLC**, a Florida limited liability company, on behalf of said company. He/She is personally known to me or has produced drivers license as identification.

(Affix Seal)

Kevin Douglas

Print Name: Kevin Douglas

My Commission Expires: 6/7/27



| |
|--|
| DEF: Site Number: 116134 Land Unit: 1737819 Project Number: 116134-464987 |
|--|

**THIRD AMENDMENT TO
LAND SUBLEASE AGREEMENT**

THIS THIRD AMENDMENT TO LAND SUBLEASE AGREEMENT (“Third Amendment”) is made and entered into effective on the _____ day of _____, 2023 by and between **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a Dependent Special District created and operating pursuant to the authority of Chapter 159, Florida Statutes (“Sub-Landlord”) and **DUKE ENERGY FLORIDA, LLC**, a Florida limited liability company, as successor in interest to Hardee Dydo Solar, LLC (“Subtenant”).

WHEREAS, Sub-Landlord and Subtenant entered into that certain Land Sublease Agreement with an effective date of December 3, 2019, as amended by that First Amendment to Land Sublease Agreement dated December 18, 2020, and that Second Amendment to Land Sublease Agreement dated July 19, 2021 (collectively, as amended and modified from time to time, the “Sublease”) that allows Subtenant to use the Premises (as defined in the Sublease); and

WHEREAS, Sub-Landlord and Subtenant desire to enter into this Third Amendment for the purposes of amending the Sublease to clarify the description of Premises, adjust the defined terms given to the Parties, and modify the payment of the rent.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Sub-Landlord and Subtenant hereby agree to amend the Sublease as follows:

1. Exhibits A-1 and A-2 to the Sublease are hereby deleted in their entirety and replaced with **Exhibit A** attached hereto and incorporated herein by reference. From and after the Effective Date of this Third Amendment, the definition of “Premises” under the Sublease shall be amended to mean and refer to the real property legally described and depicted on Exhibit A.
2. The “Access Road” set forth in Section 5.09 of the Sublease shall mean the combined Access Easement #1 and Access Easement #2 legally described and depicted on Exhibit A.
3. Wherever used in the Sublease, the defined term “Tenant” shall be replaced with the word “Subtenant” and the defined term “Landlord” shall be replaced with the word “Sub-Landlord”. This adjustment provides clarity and better reflects the relationship between the Parties given the status of this agreement as a Sublease; it is not intended to alter substantive definitions.
4. The first full paragraph of Section 2.02 is hereby replaced with the following:

Beginning on the Extended Term Date, Subtenant covenants and agrees to pay Sub-Landlord “Base Rent” in an amount equal to all “Impositions” related to the Premises plus five hundred dollars (\$500.00) per acre of land

constituting the Premises, escalating at 2% per year. Beginning on the date that Subtenant is authorized to and actually does generate 75 megawatts or more in capacity at the point of interconnection, including associated facilities physically connected to the Premises, an additional one hundred dollars (\$100.00) per acre of land shall be due and payable, which additional amount shall thereafter constitute an inseparable part of the "Base Rent" for purposes of this agreement. Base Rent shall escalate at the rate of 2% per year and shall never decrease. Base Rent shall not be below an annual total sum of two hundred fifty thousand dollars (\$250,000.00). Base Rent shall be paid by Subtenant in advance through the Extended Term and all applicable Renewal Terms.

5. Subsection a of Section 2.04 is hereby replaced with the following:

Subtenant shall pay Rent to Sub-Landlord annually, in advance, with payment for each calendar year due no later than January 30th of that year.

6. Subsection b of Section 2.04 is hereby replaced with the following:

For any partial calendar year the Rent shall be prorated to the actual number of calendar days that the Sublease is in force during that year.

7. Except as amended by this Third Amendment, the terms of the Sublease are hereby ratified and affirmed in all respects.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have caused this THIRD AMENDMENT TO LAND SUBLEASE AGREEMENT to be executed by their respective duly authorized representatives as of the day and year first above written.

SUB-LANDLORD:

HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

a Dependent Special District created and operating pursuant to the authority of Chapter 159, Florida Statutes

Witnesses:

_____ By: _____

Print Name: _____ Name: _____

_____ Title: _____

Print Name: _____

SUBTENANT:

DUKE ENERGY FLORIDA, LLC

a Florida limited liability company

Witnesses:

Andrew Rogers III By: Andrew T. Hill

Print Name: Andrew Rogers III Name: ANDREW T. HILL

Marshall Smith Title: DIRECTOR, R.E. STRATEGY + TRANSACTIONS

Print Name: Marshall Smith

[Consent by Landlord on Following Page]

Landlord Consent and Acknowledgement Only:

**SOUTH FT. MEADE LAND
MANAGEMENT, INC.**

By: _____

Name: _____

Its: _____

MOSAIC FERTILIZER, LLC

By: _____

Name: _____

Its: _____

Exhibit A

LEGAL DESCRIPTION:

PARCELS #05-33-24-0000-10050-0000 and 05-33-24-0000-10010-0000

A portion of Sections 4, 5 and 6, Township 33 South, Range 24 East, Hardee County, Florida, described as follows:

Commence at the southwest corner of said Section 5; thence North 00°08'55" East, along the west line of said Section 5, a distance of 288.57 feet to the Point of Beginning; thence South 89°41'54" West, a distance of 600.04 feet; thence North 00°13'22" East, a distance of 83.81 feet; thence North 49°25'17" East, a distance of 266.73 feet; thence North 53°00'15" East, a distance of 225.56 feet; thence North 70°55'29" East, a distance of 238.57 feet; thence North 43°47'33" East, a distance of 111.55 feet; thence North 37°05'43" East, a distance of 169.35 feet; thence North 10°32'07" East, a distance of 180.68 feet; thence North 01°41'45" West, a distance of 221.90 feet; thence North 06°11'26" West, a distance of 188.95 feet; thence North 38°13'42" West, a distance of 173.33 feet; thence North 64°04'36" West, a distance of 92.20 feet to the west line of said Section 5; thence North 82°13'13" West, a distance of 247.49 feet; thence South 86°27'23" West, a distance of 353.53 feet; thence North 00°13'27" East, a distance of 3117.52 feet; thence South 89°50'34" West, a distance of 1895.56 feet to the east right-of-way line of the CSX railroad, a 100 foot wide right-of-way; thence North 08°55'32" West, along said east line, a distance of 607.97 feet to the north line of said Section 6; thence North 89°51'18" East, along said north line, a distance of 2593.93 feet to the northwest corner of said Section 5; thence North 89°55'34" East, along the north line of said section 5, a distance of 3773.35 feet; thence South 01°05'42" East, a distance of 3167.36 feet; thence South 34°16'19" East, a distance of 172.35 feet; thence South 26°07'22" West, a distance of 188.34 feet; thence South 02°47'50" West, a distance of 134.11 feet; thence South 74°51'53" West, a distance of 403.53 feet; thence South 00°25'01" West, a distance of 110.87 feet; thence South 06°52'14" West, a distance of 113.60 feet; thence South 22°45'31" West, a distance of 144.96 feet; thence South 15°13'20" East, a distance of 95.19 feet; thence South 45°02'49" East, a distance of 187.35 feet; thence South 00°02'49" East, a distance of 118.40 feet; thence South 89°57'11" West, a distance of 250.23 feet; thence South 00°02'49" East, a distance of 713.18 feet; thence South 00°00'00" West, a distance of 34.81 feet; thence South 89°41'54" West, a distance of 3311.45 feet to the Point of Beginning

CONTAINS 517.24 ACRES (22,531,169 SQUARE FEET) MORE OR LESS.

ACCESS EASEMENT #1 (by Pickett and Associates, Inc.)

A portion of Section 6, Township 33 South, Range 24 East, Hardee County, Florida, described as follows:

Commence at the southwest corner of said Section 5; thence North 00°08'55" East, along the west line of said Section 5, a distance of 1735.79 feet; thence North 82°13'13" West, a distance of 247.49 feet; thence South 86°27'23" West, a distance of 353.53 feet; thence North 00°13'27" East, a distance of 59.80 feet to the Point of Beginning; thence South 87°58'33" West, a distance of 320.41 feet to the beginning of a curve concave southeasterly, having a radius of 38.00 feet; thence southwesterly along said curve to the left through a central angle of 32°50'36", an arc distance of 21.78 feet (Chord Bearing = South 71°33'15" West, Chord Distance = 21.49 feet) to the beginning of a curve concave northwesterly, having a radius of 511.00 feet; thence southwesterly along said curve to the right through a central angle of 36°15'15", an arc distance of 323.34 feet (Chord Bearing = South 73°15'35" West, Chord Distance = 317.97 feet) to the beginning of a curve concave southerly, having a radius of 1275.00 feet; thence westerly along said curve to the left through a central angle of 06°38'15", an arc distance of 147.70 feet (Chord Bearing = South 88°04'05" West, Chord Distance = 147.62 feet); thence South 84°44'57" West, a distance of 574.64 feet to the beginning of a curve concave southeasterly, having a radius of 450.00 feet; thence southwesterly along said curve to the left through a central angle of 01°38'43", an arc distance of 12.92 feet (Chord Bearing = South 83°55'36" West, Chord Distance = 12.92 feet) to the east right-of-way line of the CSX Railroad; thence North 08°55'32" West, along said east line, a distance of 50.03 feet to a non-tangent curve concave southeasterly, having a radius of 500.00 feet; thence northeasterly along said curve to the right through a central angle of 01°50'54", an arc distance of 16.13 feet (Chord Bearing = North 83°49'30" East, Chord Distance = 16.13 feet); thence North 84°44'57" East, a distance of 574.64 feet to the beginning of a curve concave southerly, having a radius of 1325.00 feet; thence easterly along said curve to the right through a central angle of 06°38'15", an arc distance of 153.50 feet (Chord Bearing = North 88°04'05" East, Chord Distance = 153.41 feet) to the beginning of a curve concave northwesterly, having a radius of 461.00 feet; thence northeasterly along said curve to the left through a central angle of 36°15'15", an arc distance of 291.70 feet (Chord Bearing = North 73°15'35" East, Chord Distance = 286.86 feet) to the beginning of curve concave southeasterly, having a radius of 88.00 feet; thence northeasterly along said curve to the right through a central angle of 32°50'36", an arc distance of 50.44 feet (Chord Bearing = North 71°33'15" East, Chord Distance = 49.76 feet); thence North 87°58'33" East, a distance of 322.37 feet; thence South 00°13'27" West, a distance of 50.04 feet to the Point of Beginning.

CONTAINS 1.61 ACRES (70,239 SQUARE FEET) MORE OR LESS.

ACCESS EASEMENT #2 (by Pickett and Associates, Inc.)

A portion of Section 6, Township 33 South, Range 24 East, Hardee County, Florida, described as follows:

Commence at the southwest corner of said Section 5; thence North 00°08'55" East, along the west line of said Section 5, a distance of 1735.79 feet; thence North 82°13'13" West, a distance of 247.49 feet; thence South 86°27'23" West, a distance of 353.53 feet; thence North 00°13'27" East, a distance of 59.80 feet; thence South 87°58'33" West, a distance of 320.41 feet to the beginning of a curve concave southeasterly, having a radius of 38.00 feet; thence southwesterly along said curve to the left through a central angle of 32°50'36", an arc distance of 21.78 feet (Chord Bearing = South 71°33'15" West, Chord Distance = 21.49 feet) to the beginning of a curve concave northwesterly, having a radius of 511.00 feet; thence southwesterly along said curve to the right through a central angle of 36°15'15", an arc distance of 323.34 feet (Chord Bearing = South 73°15'35" West, Chord Distance = 317.97 feet) to the beginning of a curve concave southerly, having a radius of 1275.00 feet; thence westerly along said curve to the left through a central angle of 06°38'15", an arc distance of 147.70 feet (Chord Bearing = South 88°04'05" West, Chord Distance = 147.62 feet); thence South 84°44'57" West, a distance of 574.64 feet to the beginning of a curve concave southeasterly, having a radius of 450.00 feet; thence southwesterly along said curve to the left through a central angle of 01°38'43", an arc distance of 12.92 feet (Chord Bearing = South 83°55'36" West, Chord Distance = 12.92 feet) to the Point of Beginning; said point being on the east right-of-way line of the CSX Railroad (a 100' wide right-of-way) and the beginning of a curve concave southeasterly, having a radius of 450.00 feet; thence southwesterly along said curve to the left through a central angle of 02°01'47", an arc distance of 15.94 feet (Chord Bearing = South 82°05'21" West, Chord Distance = 15.94 feet); thence South 81°04'28" West, a distance of 54.06 feet to the beginning of a curve concave southeasterly, having a radius of 30.00 feet; thence southwesterly along said curve to the left through a central angle of 90°00'00", an arc distance of 47.12 feet (Chord Bearing = South 36°04'28" West, Chord Distance = 42.43 feet) to the east right-of-way line of County Road 663; thence North 08°55'32" West, along said east right-of-way line, a distance of 110.00 feet to the beginning of a curve concave northeasterly, having a radius of 30.00 feet; thence southeasterly along said curve to the left through a central angle of 90°00'00", an arc distance of 47.12 feet (Chord Bearing = South 53°55'32" East, Chord Distance = 42.43 feet); thence North 81°04'28" East, a distance of 54.06 feet to the beginning of a curve concave southeasterly, having a radius of 500.00 feet; thence northeasterly along said curve to the right through a central angle of 01°49'36", an arc distance of 15.94 feet (Chord Bearing = North 81°59'15" East, Chord Distance = 15.94 feet) to said east right-of-way line of the CSX Railroad; thence South 08°55'32" East, along said east right-of-way line, a distance of 50.03 feet to the Point of Beginning.

CONTAINS 0.12 ACRE (5,386 SQUARE FEET) MORE OR LESS.

THIRD AMENDMENT TO LAND LEASE AGREEMENT

THIS THIRD AMENDMENT TO LAND LEASE AGREEMENT (“Third Amendment”) is made and entered into as of the _____ day of _____, 2023 by and between **SOUTH FT. MEADE LAND MANAGEMENT, INC.**, a Delaware Corporation (“SFMLM”), **MOSAIC FERTILIZER, LLC**, a Delaware limited liability company (“Mosaic”) (SFMLM and Mosaic are collectively, “Landlord”), and the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a dependent special district created and operating pursuant to the authority of Chapter 159, Florida Statutes (“Tenant”).

WHEREAS, Landlord and Tenant entered into that certain Land Lease Agreement with an effective date of December 3, 2019, as amended by that First Amendment to Land Lease Agreement dated December 18, 2020, and that Second Amendment to Land Lease Agreement dated July 19, 2021 (collectively, as amended and modified from time to time, the “Lease”) relating to certain Premises located in Hardee County, Florida as more particularly described in the Lease;

WHEREAS, with consent of Landlord, Tenant leases the Premises to Duke Energy Florida, LLC, a Florida limited liability company, as subtenant (“Subtenant”);

WHEREAS, Subtenant seeks certain revisions to the Sublease to clarify the description of the real property and the payment of rent, which revisions require consent and approval of Landlord, and for which Landlord does consent; and

WHEREAS, Landlord and Tenant have determined that certain revisions to the Lease are necessary in light of the foregoing and desire to amend the Lease.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree that the above recitals are correct and further agree to amend the Lease as follows:

1. Exhibits A-1 and A-2 to the Lease are hereby replaced with the **Exhibit A** attached hereto and incorporated herein by reference. From and after the Effective Date of this Third Amendment, the definition of “Premises” under the Sublease shall be amended to mean and refer to the real property legally described and depicted on Exhibit A.
2. The “Access Road” set forth in Section 5.09 of the Sublease shall mean the combined Access Easement #1 and Access Easement #2 legally described and depicted on Exhibit A.
3. Subsection “a” of Section 2.03 is hereby replaced with the following:

Tenant shall pay Rent to Landlord annually, in advance, with payment for each calendar year due no later than March 30th of that year.

4. Subsection “b” of Section 2.03 is hereby replaced with the following:

For any partial calendar year, the Rent shall be prorated to the actual number of calendar days that the Lease is in force during that year.

- 5. Except as amended by this Third Amendment, the terms of the Lease are hereby ratified and affirmed in all respects.

IN WITNESS WHEREOF, the parties hereto have caused this **THIRD AMENDMENT TO LAND LEASE AGREEMENT** to be executed by their respective duly authorized representatives as of the date first above written.

Witnesses: **SOUTH FT. MEADE LAND MANAGEMENT, INC.**

Print Name: _____ By: _____

Name: _____

Print Name: _____ Its: _____

Witnesses: **MOSAIC FERTILIZER, LLC**

Print Name: _____ By: _____

Name: _____

Print Name: _____ Its: _____

Witnesses: **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**

Print Name: _____ By: _____

Name: _____

Print Name: _____ Its: _____

Prepared by and return to:
Shannon L. Nash
Attorney at Law
Swaine, Harris & Wohl, P.A.
425 South Commerce Avenue
Sebring, FL 33870-3702
863-385-1549

MEMORANDUM OF LEASE
(AS AMENDED)

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the rents and covenants set forth in a certain Land Lease Agreement dated December 3, 2019, as amended by that First Amendment to Land Lease Agreement dated December 18 2020 and Second Amendment to Land Lease Agreement dated July 19, 2021 and Third Amendment to Land Lease Agreement dated _____, 2023 (collectively, the “Lease”) by and among **MOSAIC FERTILIZER, LLC**, a Delaware limited liability company, and **SOUTH FT. MEADE LAND MANAGEMENT, INC.**, a Delaware corporation (collectively, “Landlord”), and **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a dependent special district of Hardee County Florida, created and operating pursuant to the authority of Chapter 159, Florida Statutes, political subdivision of the State of Florida (“Tenant”).

Landlord has subleased to Tenant that property located in Hardee County, Florida, more particularly described as follows:

That certain real property identified on **Exhibit A**, attached hereto and incorporated herein by reference (the “Premises”).

The Lease took effect on December 3, 2019 (the “Effective Date”) and continues through June 21, 2051 plus four additional optional Renewal Terms of five years each.

The provisions set forth in the Lease are hereby incorporated in this Memorandum as though stated herein.

[Signatures Begin on Following Page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum of Lease by authority duly given. The signatures listed below do hereby confirm the substance and content of the Lease among Mosaic Fertilizer, LLC, South Ft. Meade Land Management, Inc., and Hardee County Industrial Development Authority, dated December 3, 2019, as amended on December 18, 2020, June 19, 2021, and _____, 2023.

LANDLORD:

MOSAIC FERTILIZER, LLC
a Delaware limited liability company

Witnesses:

Name: _____

Name: _____

By: _____

Name: _____

Title: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day _____, 2023 by _____, as _____ of MOSAIC FERTILIZER, LLC, on behalf of said entity in the capacity stated. He/she is personally known to me or has produced _____ as identification.

(Affix Seal)

Print Name: _____
My Commission Expires: _____

[Signatures Continue on Following Page]

LANDLORD:

**SOUTH FT. MEADE LAND
MANAGEMENT, INC.**

Witnesses:

Name: _____

Name: _____

By: _____

Name: _____

Title: _____

**STATE OF FLORIDA
COUNTY OF _____**

The foregoing instrument was acknowledged before me this ____ day _____, 2023 by _____, as _____ of SOUTH FT. MEADE LAND MANAGEMENT, INC., on behalf of said entity in the capacity stated. He/she is personally known to me or has produced _____ as identification.

(Affix Seal)

Print Name: _____

My Commission Expires: _____

[Signatures Continue on Following Page]

TENANT:

**HARDEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

Witnesses:

Name: _____

Name: _____

By: _____

Name: _____

Title: _____

**STATE OF FLORIDA
COUNTY OF HARDEE**

The foregoing instrument was acknowledged before me this ____ day _____, 2023 by _____, as _____ of Hardee County Industrial Development Authority, in the capacity stated. He/she is personally known to me or has produced _____ as identification.

(Affix Seal)

Print Name: _____

My Commission Expires: _____

Exhibit A

LEGAL DESCRIPTION:

PARCELS #05-33-24-0000-10050-0000 and 05-33-24-0000-10010-0000

A portion of Sections 4, 5 and 6, Township 33 South, Range 24 East, Hardee County, Florida, described as follows:

Commence at the southwest corner of said Section 5; thence North 00°08'55" East, along the west line of said Section 5, a distance of 288.57 feet to the Point of Beginning; thence South 89°41'54" West, a distance of 600.04 feet; thence North 00°13'22" East, a distance of 83.81 feet; thence North 49°25'17" East, a distance of 266.73 feet; thence North 53°00'15" East, a distance of 225.56 feet; thence North 70°55'29" East, a distance of 238.57 feet; thence North 43°47'33" East, a distance of 111.55 feet; thence North 37°05'43" East, a distance of 169.35 feet; thence North 10°32'07" East, a distance of 180.68 feet; thence North 01°41'45" West, a distance of 221.90 feet; thence North 06°11'26" West, a distance of 188.95 feet; thence North 38°13'42" West, a distance of 173.33 feet; thence North 64°04'36" West, a distance of 92.20 feet to the west line of said Section 5; thence North 82°13'13" West, a distance of 247.49 feet; thence South 86°27'23" West, a distance of 353.53 feet; thence North 00°13'27" East, a distance of 3117.52 feet; thence South 89°50'34" West, a distance of 1895.56 feet to the east right-of-way line of the CSX railroad, a 100 foot wide right-of-way; thence North 08°55'32" West, along said east line, a distance of 607.97 feet to the north line of said Section 6; thence North 89°51'18" East, along said north line, a distance of 2593.93 feet to the northwest corner of said Section 5; thence North 89°55'34" East, along the north line of said section 5, a distance of 3773.35 feet; thence South 01°05'42" East, a distance of 3167.36 feet; thence South 34°16'19" East, a distance of 172.35 feet; thence South 26°07'22" West, a distance of 188.34 feet; thence South 02°47'50" West, a distance of 134.11 feet; thence South 74°51'53" West, a distance of 403.53 feet; thence South 00°25'01" West, a distance of 110.87 feet; thence South 06°52'14" West, a distance of 113.60 feet; thence South 22°45'31" West, a distance of 144.96 feet; thence South 15°13'20" East, a distance of 95.19 feet; thence South 45°02'49" East, a distance of 187.35 feet; thence South 00°02'49" East, a distance of 118.40 feet; thence South 89°57'11" West, a distance of 250.23 feet; thence South 00°02'49" East, a distance of 713.18 feet; thence South 00°00'00" West, a distance of 34.81 feet; thence South 89°41'54" West, a distance of 3311.45 feet to the Point of Beginning

CONTAINS 517.24 ACRES (22,531,169 SQUARE FEET) MORE OR LESS.

ACCESS EASEMENT #1 (by Pickett and Associates, Inc.)

A portion of Section 6, Township 33 South, Range 24 East, Hardee County, Florida, described as follows:

Commence at the southwest corner of said Section 5; thence North 00°08'55" East, along the west line of said Section 5, a distance of 1735.79 feet; thence North 82°13'13" West, a distance of 247.49 feet; thence South 86°27'23" West, a distance of 353.53 feet; thence North 00°13'27" East, a distance of 59.80 feet to the Point of Beginning; thence South 87°58'33" West, a distance of 320.41 feet to the beginning of a curve concave southeasterly, having a radius of 38.00 feet; thence southwesterly along said curve to the left through a central angle of 32°50'36", an arc distance of 21.78 feet (Chord Bearing = South 71°33'15" West, Chord Distance = 21.49 feet) to the beginning of a curve concave northwesterly, having a radius of 511.00 feet; thence southwesterly along said curve to the right through a central angle of 36°15'15", an arc distance of 323.34 feet (Chord Bearing = South 73°15'35" West, Chord Distance = 317.97 feet) to the beginning of a curve concave southerly, having a radius of 1275.00 feet; thence westerly along said curve to the left through a central angle of 06°38'15", an arc distance of 147.70 feet (Chord Bearing = South 88°04'05" West, Chord Distance = 147.62 feet); thence South 84°44'57" West, a distance of 574.64 feet to the beginning of a curve concave southeasterly, having a radius of 450.00 feet; thence southwesterly along said curve to the left through a central angle of 01°38'43", an arc distance of 12.92 feet (Chord Bearing = South 83°55'36" West, Chord Distance = 12.92 feet) to the east right-of-way line of the CSX Railroad; thence North 08°55'32" West, along said east line, a distance of 50.03 feet to a non-tangent curve concave southeasterly, having a radius of 500.00 feet; thence northeasterly along said curve to the right through a central angle of 01°50'54", an arc distance of 16.13 feet (Chord Bearing = North 83°49'30" East, Chord Distance = 16.13 feet); thence North 84°44'57" East, a distance of 574.64 feet to the beginning of a curve concave southerly, having a radius of 1325.00 feet; thence easterly along said curve to the right through a central angle of 06°38'15", an arc distance of 153.50 feet (Chord Bearing = North 88°04'05" East, Chord Distance = 153.41 feet) to the beginning of a curve concave northwesterly, having a radius of 461.00 feet; thence northeasterly along said curve to the left through a central angle of 36°15'15", an arc distance of 291.70 feet (Chord Bearing = North 73°15'35" East, Chord Distance = 286.86 feet) to the beginning of curve concave southeasterly, having a radius of 88.00 feet; thence northeasterly along said curve to the right through a central angle of 32°50'36", an arc distance of 50.44 feet (Chord Bearing = North 71°33'15" East, Chord Distance = 49.76 feet); thence North 87°58'33" East, a distance of 322.37 feet; thence South 00°13'27" West, a distance of 50.04 feet to the Point of Beginning.

CONTAINS 1.61 ACRES (70,239 SQUARE FEET) MORE OR LESS.

ACCESS EASEMENT #2 (by Pickett and Associates, Inc.)

A portion of Section 6, Township 33 South, Range 24 East, Hardee County, Florida, described as follows:

Commence at the southwest corner of said Section 5; thence North 00°08'55" East, along the west line of said Section 5, a distance of 1735.79 feet; thence North 82°13'13" West, a distance of 247.49 feet; thence South 86°27'23" West, a distance of 353.53 feet; thence North 00°13'27" East, a distance of 59.80 feet; thence South 87°58'33" West, a distance of 320.41 feet to the beginning of a curve concave southeasterly, having a radius of 38.00 feet; thence southwesterly along said curve to the left through a central angle of 32°50'36", an arc distance of 21.78 feet (Chord Bearing = South 71°33'15" West, Chord Distance = 21.49 feet) to the beginning of a curve concave northwesterly, having a radius of 511.00 feet; thence southwesterly along said curve to the right through a central angle of 36°15'15", an arc distance of 323.34 feet (Chord Bearing = South 73°15'35" West, Chord Distance = 317.97 feet) to the beginning of a curve concave southerly, having a radius of 1275.00 feet; thence westerly along said curve to the left through a central angle of 06°38'15", an arc distance of 147.70 feet (Chord Bearing = South 88°04'05" West, Chord Distance = 147.62 feet); thence South 84°44'57" West, a distance of 574.64 feet to the beginning of a curve concave southeasterly, having a radius of 450.00 feet; thence southwesterly along said curve to the left through a central angle of 01°38'43", an arc distance of 12.92 feet (Chord Bearing = South 83°55'36" West, Chord Distance = 12.92 feet) to the Point of Beginning; said point being on the east right-of-way line of the CSX Railroad (a 100' wide right-of-way) and the beginning of a curve concave southeasterly, having a radius of 450.00 feet; thence southwesterly along said curve to the left through a central angle of 02°01'47", an arc distance of 15.94 feet (Chord Bearing = South 82°05'21" West, Chord Distance = 15.94 feet); thence South 81°04'28" West, a distance of 54.06 feet to the beginning of a curve concave southeasterly, having a radius of 30.00 feet; thence southwesterly along said curve to the left through a central angle of 90°00'00", an arc distance of 47.12 feet (Chord Bearing = South 36°04'28" West, Chord Distance = 42.43 feet) to the east right-of-way line of County Road 663; thence North 08°55'32" West, along said east right-of-way line, a distance of 110.00 feet to the beginning of a curve concave northeasterly, having a radius of 30.00 feet; thence southeasterly along said curve to the left through a central angle of 90°00'00", an arc distance of 47.12 feet (Chord Bearing = South 53°55'32" East, Chord Distance = 42.43 feet); thence North 81°04'28" East, a distance of 54.06 feet to the beginning of a curve concave southeasterly, having a radius of 500.00 feet; thence northeasterly along said curve to the right through a central angle of 01°49'36", an arc distance of 15.94 feet (Chord Bearing = North 81°59'15" East, Chord Distance = 15.94 feet) to said east right-of-way line of the CSX Railroad; thence South 08°55'32" East, along said east right-of-way line, a distance of 50.03 feet to the Point of Beginning.

CONTAINS 0.12 ACRE (5,386 SQUARE FEET) MORE OR LESS.

Hardee County Economic Development
Balance Sheet
As of August 31, 2023

| | <u>Aug 31, 23</u> |
|---------------------------------------|--------------------------|
| ASSETS | |
| Current Assets | |
| Checking/Savings | |
| Wauchula State Bank | 261,552.14 |
| Total Checking/Savings | <u>261,552.14</u> |
| Total Current Assets | 261,552.14 |
| Fixed Assets | |
| Accum. Depreciation | -11,409.75 |
| Office Equipment | 36,707.54 |
| Total Fixed Assets | <u>25,297.79</u> |
| TOTAL ASSETS | <u>286,849.93</u> |
| LIABILITIES & EQUITY | |
| Liabilities | |
| Current Liabilities | |
| Accounts Payable | |
| 2010 · Accounts payable | 6,013.73 |
| Total Accounts Payable | <u>6,013.73</u> |
| Total Current Liabilities | <u>6,013.73</u> |
| Total Liabilities | 6,013.73 |
| Equity | |
| 3010 · Unrestrict (retained earnings) | 144,316.53 |
| Net Income | 136,519.67 |
| Total Equity | <u>280,836.20</u> |
| TOTAL LIABILITIES & EQUITY | <u>286,849.93</u> |

Hardee County Economic Development
Profit & Loss
August 2023

| | <u>Aug 23</u> |
|--------------------------------------|--------------------------|
| Ordinary Income/Expense | |
| Income | |
| Reimbursements | 26.42 |
| Rent | 1,000.00 |
| | <hr/> |
| Total Income | 1,026.42 |
| Expense | |
| 023-0 · Life/Health Insurance | 10,327.32 |
| 025-0 · Payroll Expenses | 62,628.48 |
| 031-0 · Professional Services | 7,122.50 |
| 040-0 · Travel | 256.73 |
| 043-0 · Utilities | 946.73 |
| 044-0 · Rentals/Leases | 2,297.32 |
| 045-0 · Insurance | -95.00 |
| 048-0 · Promotional | 403.62 |
| 051-0 · Office Supplies | 761.79 |
| 052-0 · Operating Supplies | 311.54 |
| 054-0 · Books, Dues, & Subscriptions | 5,268.68 |
| 8500 · Misc expenses | 784.25 |
| | <hr/> |
| Total Expense | 91,013.96 |
| Net Ordinary Income | -89,987.54 |
| Net Income | <u><u>-89,987.54</u></u> |

Hardee County Industrial Development Authority

Balance Sheet

09/07/23

As of August 31, 2023

Accrual Basis

| | Aug 31, 23 |
|---|----------------------|
| ASSETS | |
| Current Assets | |
| Checking/Savings | |
| 101009 · WSB Sales (GF) | 2,042,633.03 |
| 101013 · WSB Mosaic CD | 6,154,768.95 |
| 101014 · WSB Mosaic Checking | 6,288,308.99 |
| Total Checking/Savings | 14,485,710.97 |
| Accounts Receivable | |
| 115001 · Accounts Receivable Rental Inc | 46,979.19 |
| Total Accounts Receivable | 46,979.19 |
| Other Current Assets | |
| 133016 · R. Riverter LOC | 118,473.66 |
| Total Other Current Assets | 118,473.66 |
| Total Current Assets | 14,651,163.82 |
| Fixed Assets | |
| Land Available for Sale | |
| 161908 · Original Purchase Hwy 62 Pro... | 887,943.00 |
| 161909 · Original Purchase Park Impro... | 16,911.87 |
| 161910 · Terrell Property | 1,141,500.00 |
| 161911 · Original Purchase less props... | -852,300.81 |
| 161912 · Contribution of Lot 13B/improv | 90,621.74 |
| 161913 · Fair value writedown - FYE 20... | -526,600.00 |
| 161914 · Fair Value writedown - FYE 20... | -225,000.00 |
| Total Land Available for Sale | 533,075.80 |
| Total Fixed Assets | 533,075.80 |
| Other Assets | |
| Due From Other Funds | |
| 140001 · Due from GF | 687,581.49 |
| 240000 · Due to SR | -687,581.49 |
| Total Due From Other Funds | 0.00 |
| Due From Other Governments | |
| 133001 · Due from EDA | 156,251.00 |
| Total Due From Other Governments | 156,251.00 |
| Total Other Assets | 156,251.00 |
| TOTAL ASSETS | 15,340,490.62 |
| LIABILITIES & EQUITY | |
| Liabilities | |
| Current Liabilities | |
| Other Current Liabilities | |
| 220004 · Sales Tax Payable | 14,920.37 |
| 220012 · Riveter Security Deposit | 1,250.00 |
| Total Other Current Liabilities | 16,170.37 |
| Total Current Liabilities | 16,170.37 |
| Total Liabilities | 16,170.37 |
| Equity | |
| Fund Balance | |
| 3000 · Nonspendable | 615,385.83 |
| 3001 · Restrictd for Economic Dev Proj | 14,383,272.88 |
| 3003 · Unassigned | 1,913,356.04 |

Hardee County Industrial Development Authority
Balance Sheet
As of August 31, 2023

| | <u>Aug 31, 23</u> |
|---------------------------------------|------------------------------------|
| Total Fund Balance | 16,912,014.75 |
| 32000 - Unrestricted Net Assets | 714,919.13 |
| Net Income | <u>-2,302,613.63</u> |
| Total Equity | <u>15,324,320.25</u> |
| TOTAL LIABILITIES & EQUITY | <u><u>15,340,490.62</u></u> |

Hardee County Industrial Development Authority

Profit & Loss

09/07/23

August 2023

Accrual Basis

| | <u>Aug 23</u> |
|---|-------------------------|
| Ordinary Income/Expense | |
| Income | |
| 337500 · EDA Proceeds Gen FD | 31,251.00 |
| 361100 · Interest Income gen fd | 5,339.59 |
| 361101 · Interest income Mosaic accts | 37,662.25 |
| 362001 · Rental Income | 69,058.19 |
| 369902 · Misc. Income Gen Fd | 500.00 |
| Total Income | <u>143,811.03</u> |
| Expense | |
| 519207 · Misc. Other Expenses | 1.00 |
| 5193100 · Professional Fees Legal | 4,097.69 |
| 5193102 · Professional Fees Engineering | 6,000.00 |
| 5193105 · Professional Fees | 4,365.00 |
| 519320 · Accounting and audit | 6,340.19 |
| 5193400 · Landscaping and Grounds | 5,451.06 |
| 5194301 · Utilities | 1,580.92 |
| 519450 · Insurance Expense | 32,714.60 |
| 519460 · Repairs and Maintenance GF | 63,333.61 |
| 519840 · Grant expenses | 3,500.00 |
| 6000 · Capital Outlay | 18,039.86 |
| Total Expense | <u>145,423.93</u> |
| Net Ordinary Income | -1,612.90 |
| Other Income/Expense | |
| Other Income | |
| Sales Tax Collection Allowance | 115.46 |
| Total Other Income | <u>115.46</u> |
| Net Other Income | <u>115.46</u> |
| Net Income | <u><u>-1,497.44</u></u> |

Hardee County Industrial Development Authority

Profit & Loss by Class

August 2023

| | 943 S. 6th Ave (General Fund) | Wauchula Fresh (General Fund) | 126 W. Main (General Fund) | Spec Building 9- EDA Grant (General Fund) |
|--|----------------------------------|----------------------------------|-------------------------------|--|
| Ordinary Income/Expense | | | | |
| Income | | | | |
| 337500 · EDA Proceeds Gen FD | 0.00 | 0.00 | 0.00 | 17,490.00 |
| 361100 · Interest Income gen fd | 0.00 | 0.00 | 0.00 | 0.00 |
| 361101 · Interest income Mosaic accts | 0.00 | 0.00 | 0.00 | 0.00 |
| 362001 · Rental Income | 0.00 | 8,000.00 | 0.00 | 0.00 |
| 369902 · Misc. Income Gen Fd | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Income | 0.00 | 8,000.00 | 0.00 | 17,490.00 |
| Expense | | | | |
| 519207 · Misc. Other Expenses | 0.00 | 0.00 | 1.00 | 0.00 |
| 5193100 · Professional Fees Legal | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193102 · Professional Fees Enginee... | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193105 · Professional Fees | 0.00 | 0.00 | 0.00 | 0.00 |
| 519320 · Accounting and audit | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193400 · Landscaping and Grounds | 0.00 | 0.00 | 0.00 | 0.00 |
| 5194301 · Utilities | 0.00 | 0.00 | 260.49 | 0.00 |
| 519450 · Insurance Expense | 0.00 | 0.00 | 5,168.95 | 0.00 |
| 519460 · Repairs and Maintenance GF | 750.00 | 0.00 | 0.00 | 0.00 |
| 519840 · Grant expenses | 0.00 | 0.00 | 0.00 | 0.00 |
| 6000 · Capital Outlay | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Expense | 750.00 | 0.00 | 5,430.44 | 0.00 |
| Net Ordinary Income | -750.00 | 8,000.00 | -5,430.44 | 17,490.00 |
| Other Income/Expense | | | | |
| Other Income | | | | |
| Sales Tax Collection Allowance | 0.00 | 13.00 | 0.00 | 0.00 |
| Total Other Income | 0.00 | 13.00 | 0.00 | 0.00 |
| Net Other Income | 0.00 | 13.00 | 0.00 | 0.00 |
| Net Income | -750.00 | 8,013.00 | -5,430.44 | 17,490.00 |

Hardee County Industrial Development Authority

Profit & Loss by Class

August 2023

| | Phase 2 Expansion- EDA Grant (General Fund) | Administrative (General Fund) | Fla Hospital Overhead (General Fund) | Incubator Overhead (General Fund) |
|--|--|----------------------------------|---|--------------------------------------|
| Ordinary Income/Expense | | | | |
| Income | | | | |
| 337500 · EDA Proceeds Gen FD | 13,761.00 | 0.00 | 0.00 | 0.00 |
| 361100 · Interest Income gen fd | 0.00 | 0.00 | 0.00 | 0.00 |
| 361101 · Interest Income Mosaic accts | 0.00 | 0.00 | 0.00 | 0.00 |
| 362001 · Rental Income | 0.00 | 0.00 | 0.00 | 5,491.00 |
| 369902 · Misc. Income Gen Fd | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Income | 13,761.00 | 0.00 | 0.00 | 5,491.00 |
| Expense | | | | |
| 519207 · Misc. Other Expenses | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193100 · Professional Fees Legal | 0.00 | 4,097.69 | 0.00 | 0.00 |
| 5193102 · Professional Fees Enginee... | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193105 · Professional Fees | 2,665.00 | 0.00 | 0.00 | 0.00 |
| 519320 · Accounting and audit | 0.00 | 6,340.19 | 0.00 | 0.00 |
| 5193400 · Landscaping and Grounds | 0.00 | 0.00 | 1,351.06 | 850.00 |
| 5194301 · Utilities | 0.00 | 0.00 | 0.00 | -719.45 |
| 519450 · Insurance Expense | 0.00 | 0.00 | 0.00 | 0.00 |
| 519460 · Repairs and Maintenance GF | 0.00 | 0.00 | 491.50 | 2,586.95 |
| 519840 · Grant expenses | 0.00 | 0.00 | 0.00 | 0.00 |
| 6000 · Capital Outlay | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Expense | 2,665.00 | 10,437.88 | 1,842.56 | 2,717.50 |
| Net Ordinary Income | 11,096.00 | -10,437.88 | -1,842.56 | 2,773.50 |
| Other Income/Expense | | | | |
| Other Income | | | | |
| Sales Tax Collection Allowance | 0.00 | 0.00 | 0.00 | 2.56 |
| Total Other Income | 0.00 | 0.00 | 0.00 | 2.56 |
| Net Other Income | 0.00 | 0.00 | 0.00 | 2.56 |
| Net Income | 11,096.00 | -10,437.88 | -1,842.56 | 2,776.06 |

Hardee County Industrial Development Authority
Profit & Loss by Class
August 2023

09/07/23

Accrual Basis

| | Mancini Foods (General Fund) | Property Management (General Fund) | Spec Bldg 1&3 Florikan Rental (General Fund) | Spec Building 4 (Kinbro) (General Fund) |
|--|---------------------------------|---------------------------------------|---|--|
| Ordinary Income/Expense | | | | |
| Income | | | | |
| 337500 · EDA Proceeds Gen FD | 0.00 | 0.00 | 0.00 | 0.00 |
| 361100 · Interest Income gen fd | 0.00 | 0.00 | 0.00 | 0.00 |
| 361101 · Interest income Mosaic accts | 0.00 | 0.00 | 0.00 | 0.00 |
| 362001 · Rental Income | 13,037.50 | 2,299.49 | 10,872.46 | 0.00 |
| 369902 · Misc. Income Gen Fd | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Income | 13,037.50 | 2,299.49 | 10,872.46 | 0.00 |
| Expense | | | | |
| 519207 · Misc. Other Expenses | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193100 · Professional Fees Legal | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193102 · Professional Fees Enginee... | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193105 · Professional Fees | 0.00 | 0.00 | 0.00 | 0.00 |
| 519320 · Accounting and audit | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193400 · Landscaping and Grounds | 0.00 | 2,100.00 | 0.00 | 0.00 |
| 5194301 · Utilities | 0.00 | 531.08 | 0.00 | 0.00 |
| 519450 · Insurance Expense | 0.00 | 0.00 | 0.00 | 0.00 |
| 519460 · Repairs and Maintenance GF | 0.00 | 37,887.42 | 0.00 | 1,415.00 |
| 519840 · Grant expenses | 0.00 | 0.00 | 0.00 | 0.00 |
| 6000 · Capital Outlay | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Expense | 0.00 | 40,518.50 | 0.00 | 1,415.00 |
| Net Ordinary Income | 13,037.50 | -38,219.01 | 10,872.46 | -1,415.00 |
| Other Income/Expense | | | | |
| Other Income | | | | |
| Sales Tax Collection Allowance | 21.19 | 1.00 | 30.00 | 0.00 |
| Total Other Income | 21.19 | 1.00 | 30.00 | 0.00 |
| Net Other Income | 21.19 | 1.00 | 30.00 | 0.00 |
| Net Income | 13,058.69 | -38,218.01 | 10,902.46 | -1,415.00 |

Hardee County Industrial Development Authority
Profit & Loss by Class
August 2023

09/07/23

Accrual Basis

| | Spec Building 5 (2280 CT) (General Fund) | Spec Building 8- Riveter (General Fund) | Spec Bldg 10 (Mach Connectio... (General Fund) | Winn Dixie Property - GF (General Fund) |
|--|---|--|---|--|
| Ordinary Income/Expense | | | | |
| Income | | | | |
| 337500 · EDA Proceeds Gen FD | 0.00 | 0.00 | 0.00 | 0.00 |
| 361100 · Interest Income gen fd | 0.00 | 0.00 | 0.00 | 0.00 |
| 361101 · Interest income Mosaic accts | 0.00 | 0.00 | 0.00 | 0.00 |
| 362001 · Rental Income | 13,241.75 | 0.00 | 7,365.99 | 8,750.00 |
| 369902 · Misc. Income Gen Fd | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Income | 13,241.75 | 0.00 | 7,365.99 | 8,750.00 |
| Expense | | | | |
| 519207 · Misc. Other Expenses | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193100 · Professional Fees Legal | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193102 · Professional Fees Enginee... | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193105 · Professional Fees | 0.00 | 0.00 | 0.00 | 200.00 |
| 519320 · Accounting and audit | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193400 · Landscaping and Grounds | 0.00 | 0.00 | 0.00 | 0.00 |
| 5194301 · Utilities | 0.00 | 1,451.80 | 0.00 | 0.00 |
| 519450 · Insurance Expense | 0.00 | 0.00 | 0.00 | 27,545.65 |
| 519460 · Repairs and Maintenance GF | 5,452.74 | 13,900.00 | 600.00 | 250.00 |
| 519840 · Grant expenses | 0.00 | 0.00 | 0.00 | 0.00 |
| 6000 · Capital Outlay | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Expense | 5,452.74 | 15,351.80 | 600.00 | 27,995.65 |
| Net Ordinary Income | 7,789.01 | -15,351.80 | 6,765.99 | -19,245.65 |
| Other Income/Expense | | | | |
| Other Income | | | | |
| Sales Tax Collection Allowance | 21.52 | 0.00 | 11.97 | 14.22 |
| Total Other Income | 21.52 | 0.00 | 11.97 | 14.22 |
| Net Other Income | 21.52 | 0.00 | 11.97 | 14.22 |
| Net Income | 7,810.53 | -15,351.80 | 6,777.96 | -19,231.43 |

Hardee County Industrial Development Authority

Profit & Loss by Class

August 2023

| | General Fund - Other (General Fund) | Total General Fund | Spec Bldg 12- Lot 2 (Special Revenue) | Ag Test Plot (Special Revenue) |
|--|--|--------------------|--|-----------------------------------|
| Ordinary Income/Expense | | | | |
| Income | | | | |
| 337500 · EDA Proceeds Gen FD | 0.00 | 31,251.00 | 0.00 | 0.00 |
| 361100 · Interest Income gen fd | 5,339.59 | 5,339.59 | 0.00 | 0.00 |
| 361101 · Interest income Mosaic accts | 0.00 | 0.00 | 0.00 | 0.00 |
| 362001 · Rental Income | 0.00 | 69,058.19 | 0.00 | 0.00 |
| 369902 · Misc. Income Gen Fd | 0.00 | 0.00 | 0.00 | 500.00 |
| Total Income | 5,339.59 | 105,648.78 | 0.00 | 500.00 |
| Expense | | | | |
| 519207 · Misc. Other Expenses | 0.00 | 1.00 | 0.00 | 0.00 |
| 5193100 · Professional Fees Legal | 0.00 | 4,097.69 | 0.00 | 0.00 |
| 5193102 · Professional Fees Enginee... | 0.00 | 0.00 | 6,000.00 | 0.00 |
| 5193105 · Professional Fees | 1,500.00 | 4,365.00 | 0.00 | 0.00 |
| 519320 · Accounting and audit | 0.00 | 6,340.19 | 0.00 | 0.00 |
| 5193400 · Landscaping and Grounds | 0.00 | 4,301.06 | 0.00 | 0.00 |
| 5194301 · Utilities | 0.00 | 1,523.92 | 0.00 | 57.00 |
| 519450 · Insurance Expense | 0.00 | 32,714.60 | 0.00 | 0.00 |
| 519460 · Repairs and Maintenance GF | 0.00 | 63,333.61 | 0.00 | 0.00 |
| 519840 · Grant expenses | 0.00 | 0.00 | 0.00 | 0.00 |
| 6000 · Capital Outlay | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Expense | 1,500.00 | 116,677.07 | 6,000.00 | 57.00 |
| Net Ordinary Income | 3,839.59 | -11,028.29 | -6,000.00 | 443.00 |
| Other Income/Expense | | | | |
| Other Income | | | | |
| Sales Tax Collection Allowance | 0.00 | 115.46 | 0.00 | 0.00 |
| Total Other Income | 0.00 | 115.46 | 0.00 | 0.00 |
| Net Other Income | 0.00 | 115.46 | 0.00 | 0.00 |
| Net Income | 3,839.59 | -10,912.83 | -6,000.00 | 443.00 |

Hardee County Industrial Development Authority

Profit & Loss by Class

August 2023

| | IDA Marketing Program (Special Revenue) | Spec Building 8- Riveter (Special Revenue) | Winn Dixie Property (Special Revenue) | Special Revenue - Other (Special Revenue) |
|--|--|---|--|--|
| Ordinary Income/Expense | | | | |
| Income | | | | |
| 337500 · EDA Proceeds Gen FD | 0.00 | 0.00 | 0.00 | 0.00 |
| 361100 · Interest Income gen fd | 0.00 | 0.00 | 0.00 | 0.00 |
| 361101 · Interest income Mosaic accts | 0.00 | 0.00 | 0.00 | 37,662.25 |
| 362001 · Rental Income | 0.00 | 0.00 | 0.00 | 0.00 |
| 369902 · Misc. Income Gen Fd | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Income | 0.00 | 0.00 | 0.00 | 37,662.25 |
| Expense | | | | |
| 519207 · Misc. Other Expenses | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193100 · Professional Fees Legal | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193102 · Professional Fees Enginee... | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193105 · Professional Fees | 0.00 | 0.00 | 0.00 | 0.00 |
| 519320 · Accounting and audit | 0.00 | 0.00 | 0.00 | 0.00 |
| 5193400 · Landscaping and Grounds | 0.00 | 0.00 | 1,150.00 | 0.00 |
| 5194301 · Utilities | 0.00 | 0.00 | 0.00 | 0.00 |
| 519450 · Insurance Expense | 0.00 | 0.00 | 0.00 | 0.00 |
| 519460 · Repairs and Maintenance GF | 0.00 | 0.00 | 0.00 | 0.00 |
| 519840 · Grant expenses | 3,500.00 | 0.00 | 0.00 | 0.00 |
| 6000 · Capital Outlay | 0.00 | 18,039.86 | 0.00 | 0.00 |
| Total Expense | 3,500.00 | 18,039.86 | 1,150.00 | 0.00 |
| Net Ordinary Income | -3,500.00 | -18,039.86 | -1,150.00 | 37,662.25 |
| Other Income/Expense | | | | |
| Other Income | | | | |
| Sales Tax Collection Allowance | 0.00 | 0.00 | 0.00 | 0.00 |
| Total Other Income | 0.00 | 0.00 | 0.00 | 0.00 |
| Net Other Income | 0.00 | 0.00 | 0.00 | 0.00 |
| Net Income | -3,500.00 | -18,039.86 | -1,150.00 | 37,662.25 |

Hardee County Industrial Development Authority
Profit & Loss by Class
August 2023

09/07/23

Accrual Basis

| | Total Special Revenue | TOTAL |
|--|-----------------------|-------------------|
| Ordinary Income/Expense | | |
| Income | | |
| 337500 · EDA Proceeds Gen FD | 0.00 | 31,251.00 |
| 361100 · Interest Income gen fd | 0.00 | 5,339.59 |
| 361101 · Interest income Mosaic accts | 37,662.25 | 37,662.25 |
| 362001 · Rental Income | 0.00 | 69,058.19 |
| 369902 · Misc. Income Gen Fd | 500.00 | 500.00 |
| Total Income | 38,162.25 | 143,811.03 |
| Expense | | |
| 519207 · Misc. Other Expenses | 0.00 | 1.00 |
| 5193100 · Professional Fees Legal | 0.00 | 4,097.69 |
| 5193102 · Professional Fees Enginee... | 6,000.00 | 6,000.00 |
| 5193105 · Professional Fees | 0.00 | 4,365.00 |
| 519320 · Accounting and audit | 0.00 | 6,340.19 |
| 5193400 · Landscaping and Grounds | 1,150.00 | 5,451.06 |
| 5194301 · Utilities | 57.00 | 1,580.92 |
| 519450 · Insurance Expense | 0.00 | 32,714.60 |
| 519460 · Repairs and Maintenance GF | 0.00 | 63,333.61 |
| 519840 · Grant expenses | 3,500.00 | 3,500.00 |
| 6000 · Capital Outlay | 18,039.86 | 18,039.86 |
| Total Expense | 28,746.86 | 145,423.93 |
| Net Ordinary Income | 9,415.39 | -1,612.90 |
| Other Income/Expense | | |
| Other Income | | |
| Sales Tax Collection Allowance | 0.00 | 115.46 |
| Total Other Income | 0.00 | 115.46 |
| Net Other Income | 0.00 | 115.46 |
| Net Income | 9,415.39 | -1,497.44 |

Hardee County Industrial Development Authority

Balance Sheet

09/07/23

As of August 31, 2023

Accrual Basis

| | <u>Aug 31, 23</u> |
|---------------------------------------|----------------------------|
| ASSETS | |
| Current Assets | |
| Checking/Savings | |
| Ona Mine- Mosaic | 8,895,153.55 |
| Total Checking/Savings | 8,895,153.55 |
| Other Current Assets | |
| Rent receivable | 279,954.60 |
| Total Other Current Assets | 279,954.60 |
| Total Current Assets | 9,175,108.15 |
| TOTAL ASSETS | <u>9,175,108.15</u> |
| LIABILITIES & EQUITY | |
| Liabilities | |
| Current Liabilities | |
| Other Current Liabilities | |
| Accounts Payable | 20,545.53 |
| Deferred Inflow | 205,990.71 |
| Sales Tax Payable | 2,985.98 |
| Total Other Current Liabilities | 229,522.22 |
| Total Current Liabilities | 229,522.22 |
| Total Liabilities | 229,522.22 |
| Equity | |
| Retained Earnings | 7,030,382.60 |
| Net Income | 1,915,203.33 |
| Total Equity | 8,945,585.93 |
| TOTAL LIABILITIES & EQUITY | <u>9,175,108.15</u> |

Hardee County Industrial Development Authority

09/07/23

Profit & Loss

Accrual Basis

August 2023

| | <u>Aug 23</u> |
|---------------------------------|---------------------------|
| Ordinary Income/Expense | |
| Income | |
| Interest Income | 22,996.10 |
| Rental Income | 22,497.34 |
| | <u>45,493.44</u> |
| Total Income | 45,493.44 |
| Expense | |
| Capital Outlay | 126,031.75 |
| Grant Expenditures | |
| Hardee Co. Education Foundat... | 12,432.18 |
| | <u>12,432.18</u> |
| Total Grant Expenditures | 12,432.18 |
| Marketing | 10,045.16 |
| Professional Fees | 28,686.00 |
| | <u>177,195.09</u> |
| Total Expense | 177,195.09 |
| Net Ordinary Income | -131,701.65 |
| Other Income/Expense | |
| Other Income | |
| Sales Tax Collection Allowance | 30.00 |
| | <u>30.00</u> |
| Total Other Income | 30.00 |
| Net Other Income | 30.00 |
| Net Income | <u><u>-131,671.65</u></u> |

Hardee County Industrial Development Authority
Profit & Loss by Class
August 2023

| | <u>Gen Economic Dev ...</u> | <u>TOTAL</u> |
|---------------------------------|-----------------------------|--------------------|
| Ordinary Income/Expense | | |
| Income | | |
| Interest Income | 22,996.10 | 22,996.10 |
| Rental Income | 22,497.34 | 22,497.34 |
| Total Income | 45,493.44 | 45,493.44 |
| Expense | | |
| Capital Outlay | 126,031.75 | 126,031.75 |
| Grant Expenditures | | |
| Hardee Co. Education Foundat... | 12,432.18 | 12,432.18 |
| Total Grant Expenditures | 12,432.18 | 12,432.18 |
| Marketing | 10,045.16 | 10,045.16 |
| Professional Fees | 28,686.00 | 28,686.00 |
| Total Expense | 177,195.09 | 177,195.09 |
| Net Ordinary Income | -131,701.65 | -131,701.65 |
| Other Income/Expense | | |
| Other Income | | |
| Sales Tax Collection Allowance | 30.00 | 30.00 |
| Total Other Income | 30.00 | 30.00 |
| Net Other Income | 30.00 | 30.00 |
| Net Income | -131,671.65 | -131,671.65 |